

Town of Brookline

Annual Town Meeting

May 19, 2021

Town of Brookline 2021 Annual Town Meeting
May 19, 20, 25, 27, and June 1, 2, 3, and 7, 2021

Night 1: May 19, 2021

- Pledge of Allegiance conducted.
- Call to order: 7:00PM.
- Meeting called to order by Moderator Kate Poverman.
- Acknowledgement of the properly noticed warrant by Town Clerk Ben Kaufman.
- Swearing in of new town meeting members by Town Clerk.
- Reading of the list of deceased town meeting members by Town Clerk.
 - Moment of silence.
- Podium turned over to Select Board Member Bernard Greene, posing a tribute to former Moderator Sandy Gadsby.
- Star Spangled Banner sung by Mr. Slayton.
- Zoom Features explained by Chat Monitor Ben Franco.
- Point of Order: Martin Rosenthal (P9)
- Voting procedures explained by the Moderator
 - Voting period will be 30 seconds long. All non-procedural votes will be recorded, unless noted otherwise. Recorded votes will be available for review the next day.
- Point of Order: Neil Wishinsky (P5)
- **VOTED:** To allow the meeting to be conducted virtually
 - **Approved**

ARTICLE 1

Appointment of Measurers of Wood and Bark

Submitted by: Select Board

Motioned and duly seconded

Presented by: Harry Friedman

Speakers: Harry Friedman (P12/AC), Miriam Aschkenasy (SB/AL)

VOTED: That the Town establish that the number of Measurers of Wood and Bark be two, appointed by the Select Board.

Approved: Aye: 224 No: 3 Abstained: 7

ARTICLE 3

Annual authorization of Compensating Balance Agreements

Submitted by: Treasurer/Collector

Motioned and duly seconded

Presented by: Bernard Greene

Speakers: Bernard Greene (SB/AL), Dennis Doughty (P3/AC), Maria Nobrega (P4)

VOTED: That the Town authorize the Town Treasurer, with the approval of the Selectmen, to enter into Compensating Balance Agreement(s) for FY2022 in accordance with General Laws Chapter 44, Section 53F.

Approved: Aye: 223 No: 2 Abstained: 5

ARTICLE 6

Acceptance of legislation to increase certain property tax exemptions.

Submitted by: Board of Assessors

Motioned and duly seconded.

Presented by: Miriam Aschkenasy

Speakers: Miriam Aschkenasy (SB/AL), Susan Granoff (P7/AC)

VOTED: That the Town elect to establish an additional property tax exemption for fiscal year 2022 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended.

Approved: Aye: 236 No: 0 Abstained: 3

ARTICLE 7

Retroactive Application of Bond Premium for the Driscoll School

Submitted by: Select Board

Motioned and duly seconded

Presented by: Bernard Greene

Speakers: Bernard Greene (SB/AL), Dennis Doughty (P3/AC)

VOTED: That the Town votes (i) to appropriate \$1,903,000, representing a portion of the net premium received upon the sale of the Town's \$153,365,000 General Obligation Municipal Purpose Loan of 2020 Bonds dated March 19, 2020, to pay a \$1,903,000 portion of the cost of the Driscoll School Reconstruction project authorized in the amount of \$115,300,000 by a vote of the Town passed November 19, 2019 (Article 4), excluded from the limitations of Proposition 2½, so-called, on December 10, 2019 (Question 1) (the "Driscoll School Project"), thereby reducing the amount authorized to be borrowed for such project by a like amount, (ii) to appropriate \$4,145,750, representing a portion of the net premium received upon the sale of the Town's \$159,520,000 General Obligation Municipal Purpose Loan of 2021 Bonds dated March 24, 2021, to pay a \$4,145,750 portion of the cost of the Driscoll School Project, thereby reducing the amount authorized to be borrowed for such project by a like amount.

Approved: Aye: 233 No: 0 Abstained: 5

ARTICLE 8

Authorize the acceptance of a grant of emergency access easement and restrictive covenant prohibiting certain future development from the developer of the Residences of South Brookline at Hancock Village.

Submitted by: Select Board

Motioned and duly seconded.

Presented by: Steven Kanes

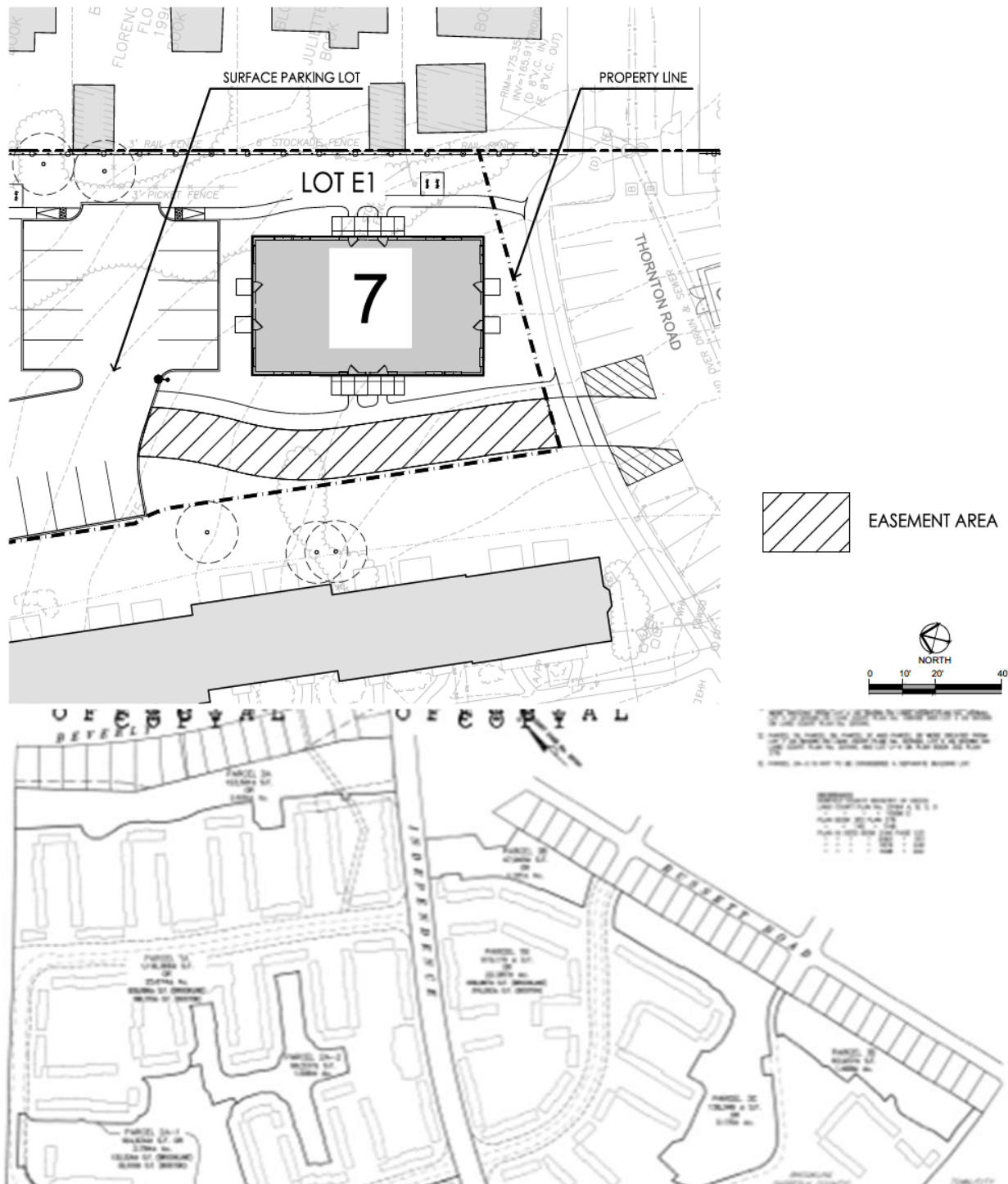
Speakers: Steven Kanes (AC) John VanScoyoc (SB/AL)

VOTED: That the Town authorize the Select Board, on such terms and conditions that are in the best interest of the Town, to accept:

(1) a grant of an easement from ROSB Realty LLC, or one of its successors or assigns, for ingress and egress in, over and through land between Thornton Road and land described as the Lot E1 Surface Parking Lot, more specifically shown as the “Easement Area” on the diagram below. Said easement is further described in the Emergency Access Easement Agreement previously approved by the Select Board contingent on subsequent Town Meeting authorization. For reference, Lot E1 is located on Parcel 3B shown on a plan entitled “Hancock Village, Plan of Land in Brookline/Boston, MA (Norfolk/Suffolk County) Scale 1” = 100’, Date: September 20, 2018 by Precision Land Surveying, Inc.” recorded with the Norfolk Registry of Deeds (the “Registry”) at Plan Book 684 of 2019, at Page 61.

and

(2) the restrictive covenant in favor of the Town between the Town and The Residences of South Brookline LLC and ROSB Realty LLC prohibiting the construction of any new structures or paved surfaces not permitted by the Comprehensive Permit (issued to The Residences of South Brookline LLC and filed with the Brookline Town Clerk on February 20, 2015 and recorded with the Registry on November 1, 2019 in Book 37307, Page 241, as amended) on the property shown as Parcels 3A, 3B, 3C and 3D on that certain plan entitled “Hancock Village, Plan of Land in Brookline/Boston, MA (Norfolk/Suffolk County) Scale 1” = 100’, Date: September 20, 2018 by Precision Land Surveying, Inc.” recorded with the Registry at Plan Book 684 of 2019, at Page 61-66. The restrictive covenant is further described in the Declaration of Restrictive Covenant previously approved by the Select Board contingent on subsequent Town Meeting authorization.



Approved: Aye: 231 No: 1 Abstained: 4

ARTICLE 9

Annual (FY22) Budget Appropriations Article

Submitted by: Advisory Committee

Motioned and duly seconded.

Presented by: Michael Sandman

Speakers: Michael Sandman (P3/AC), Heather Hamilton (SB/AL), Jim Marini (Interim Superintendent), Mel Kleckner (Town Administrator), Michael Sandman (P3/AC), Regina Frawley (P16), Amanda Zimmerman (P7), Erin Gallentine (Commissioner of Public Works), Todd Kirrane (Transportation Director), Martin Rosenthal (P9), Jane Gilman (P3), Melissa Vogt (P4), Ben Kaufman (Town Clerk/AL), Vena Priestly (P4), Clint Richmond (P6), Jonathan Davis (P10), Naomi Sweitzer (P10), Lee Selwyn (P13), Clint Richmond (P6), Charles Simmons (Director of Public Buildings), Jane Gilman (P3), Michael Sandman (P3/AC), Deborah Brown (P1), Mary Ellen Normen (Deputy Superintendent for Administration and Finance), Jonathan Klein (P10), Melissa Goff (Deputy Town Administrator), Deborah Brown (P1), Michael Zoorob (P3), Amanda Zimmerman (P7), Vena Priestly (P4), Mark Levin (P7), Emy Takinami (P10), Natalia Linos (P6), Ryan Black (P6), Bonnie Bastien (P5), Naomi Sweitzer (P10), Bernard Greene (SB/AL), Raul Fernandez (SB/AL), Chi Chi Wu (P7/AC), Nathan Shpritz (P16), Janice Kahn (P15/AC), Michael Sandman (P3/AC), Alisa Jonas (P16), Amy Hummel (P12/AC), Richard Benka (P13), Paul Warren (P1/AC), Ariel Maddocks (P10)

Votes on Bond Items

- **VOTED:** Item #55

Approved:	Aye: 224	No: 0	Abstained: 3
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- **VOTED:** Item #56

Approved:	Aye: 219	No: 0	Abstained: 3
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- **VOTED:** Item #57

Approved:	Aye: 231	No: 0	Abstained: 3
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- **VOTED:** Item #58

Approved:	Aye: 230	No: 0	Abstained: 2
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- **VOTED:** Item #59

Approved:	Aye: 228	No: 0	Abstained: 3
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Select Board Budget Amendment

Presented By: Select Board

Motioned and duly seconded

Presented By: Mel Kleckner

Speakers: Mel Kleckner (Town Administrator), Michael Sandman (P3/AC) Emy Takinami (P10), Natalia Linos (P6), Ryan Black (P6), Bonnie Bastien (P5), Naomi Sweitzer (P10), Bernard Greene (SB/AL), Raul Fernandez (SB/AL), Chi Chi Wu (P7/AC), Nathan Shpritz (P16), Janice Kahn (P15/AC), Michael Sandman (P3/AC), Alisa Jonas (P16), Amy Hummel (P12/AC), Richard Benka (P13), Paul Warren (P1/AC), Ariel Maddocks (P10)

MOTION to terminate debate

Failed

MOTION to terminate debate

Failed

MOTION to terminate debate

Failed

MOTION to terminate debate

Approved

VOTED: To amend Table 2 of the Advisory Committee's budget motion so that the Select Board budget categories are allocated as follows:

Department/Board/Commission	Personnel Services/Benefits	Purchase of Services	Supplies	Other Charges/Expenses	Capital Outlay	Agency Total
Select Board (Town Administrator)	894,122	60,880	3,048	7,900	2,155	968,105

Approved: Aye: 196 No: 36 Abstained: 4

MOTION to Adjourn, duly seconded

Approved

Night 2: May 20, 2021

- Call to order: 7:00P.M.
- Meeting called to order by Moderator Poverman
- Updated votes announced by the Moderator
- **MOTION** to Hear Articles 14-17 immediately after the budget, duly seconded
Approved
- Point of Order: Nathan Shpritz (P16)
- Point of Order: Susan Helms Daley (P1)

ARTICLE 9 (Continued)

Submitted by: Select Board

Motioned and duly seconded.

Presented by: Bernard Greene

Questions:

Information Technology: Michael Berger (P15), Feng Yang (Chief Information Officer)

Finance Department: Nathan Shpritz (P16), Michael DiPietro (Town Comptroller), Arthur Conquest (P6), Mary Ellen Normen (Deputy Superintendent for Administration and Finance)

Legal Services: Dave Gacioch (P13), Joslin Murphy (Town Counsel)

Advisory Committee: Harry Friedman (P12/AC), Mary Ellen Normen (Deputy Superintendent for Administration and Finance)

Town Clerk: Jane Gilman (P3), Ben Kaufman (Town Clerk/AL), Rebecca Stone (P3), Melissa Goff (Deputy Town Administrator), Janice Kahn (P15), Mark Levy (P7), Amy Hummel (P12/AC)

Planning and Community Development: Michael Zoorob (P3), Alison Steinfeld (Planning Director), Martin Rosenthal (P9), Jane Gilman (P3), David Lowe (P11), Kara Brewton (Economic Development Director), Gerald Tuckman (P9), Kenneth Goldstein (P14), Mel Kleckner (Town Administrator)

Police: Martin Rosenthal (P9), Mark Morgan (Acting Chief of Police), Dave Gacioch (P13), Natalia Linos (P6), Petra Bignami (P12), Anne Weaver (P11), Ryan Black (P6), Lauren Bernard (P8), Donelle O'Neal (P4), Mel Kleckner (Town Administrator), Chi Chi Wu (P7), Deborah Brown (P1), Kevin Mascoll (Public Safety Business Manager), Susan Park (P2), Wendy Friedman (P5), Casey Hatchett (P12), Scott Englander (P6),

Fire: Deborah Brown (P1), Kevin Mascoll (Public Safety Business Manager)

Building: Jesse Gray (P10), Linda Pehlke (P2), Dan Bennett (Building Commissioner), Kathleen Scanlon (P3), Alisa Jonas (P16), David Geanakakis (Chief Procurement Officer), Regina Frawley (P16), Danielle Da Silva (P16), Carlos Ridruejo (P15)

Public Works: Deborah Brown (P1) Erin Gallentine (Commissioner of Public Works), Lara Jarrell (P7) Jesse Gray (P10) Amy Hummel (P12) Linda Pehlke (P2) Jeff Rudolph (P6)

Library: Marissa Vogt (P4), Sara Slymon (Library Director)

Health and Human Services: Natalia Linos (P6), Dr. Swannie Jett (Health Commissioner), Susan Granoff (P7)

Recreation: Scott Gladstone (P16), Lauren Bernard (P8), Leigh Jackson (Recreation Director), Erin Gallentine (Commissioner of Public Works), Vena Priestly (P4), David Day (P16)

Schools/Vocational Education Assessments: David Gacioch (P13), Nathan Shpritz (P16), Jim Marini (Interim Superintendent), Laura Baines-Walsh (P16),

Danny Stone (P10), Mary Ellen Normen (Deputy Superintendent for Administration and Finance), Carolyn Thall (P16), George Abbott White (P9), Deborah Brown (P1), Andrew Fischer (P13), Lee Selwyn (P13), Scott Ananian (P10), Lauren Bernard (P8), Susan Park (P2), Arthur Conquest (P6), Mark Levy (P7), Vena Priestly (P4)

Employee Benefits: Nathan Shpritz (P16), Jeana Franconi (Finance Director)

Reserve Fund: Deborah Brown (P1), Melissa Goff (Deputy Town Administrator)

Audit/Professional Services: Gil Hoy (P13)

Point of Information: John Dogget (P13)

VOTED: To approve the budget for fiscal year 2022 set forth in the attached Tables I and II; to appropriate the amounts set forth for such fiscal year in the departments and expenditure object classifications within departments, as set forth in Tables I and II, subject to the following conditions; to raise all sums so appropriated, unless other funding is provided herein; and to establish the following authorizations:

1.) TRANSFERS AMONG APPROPRIATIONS: Transfers between the total departmental appropriations separately set forth in Tables 1 and 2 shall be permitted by vote of Town Meeting or as otherwise provided by Massachusetts General Laws Chapter 44, Section 33B(b). Within each separate departmental appropriation, expenditures shall be restricted to the expenditure object classifications set forth in the recommendation of the Advisory Committee, and voted by the Town Meeting, for each department, subject to the following exceptions:

A) Expenditures within the appropriation for the School Department shall not be restricted.

B) The following transfers within the appropriations for each department (other than the School Department and the Library Department), shall be permitted only with the prior written approval of the Select Board and Advisory Committee:

i) Transfers from the appropriation for the capital outlay object classification to any other object classification.

ii) Transfers to the appropriation for the personal services object classification from any other object classification.

iii) Any transfer which has the effect of increasing the number of positions or the compensation for any position, exclusive of adjustments in wages and benefits voted separately by Town Meeting.

v. Transfers within the Department of Public Works from the Parks Division to any other purpose.

vi. Transfers within the Department of Public Works from the Snow and Ice budget to any other purpose.

C) Transfers within the Library Department appropriation shall be permitted with the approval of the Board of Library Trustees, and written notice of such approval shall be submitted promptly to the Advisory Committee, Town Administrator and Town Comptroller.

D) All other transfers within the total appropriation for a particular department shall be permitted with the written approval of the Town Administrator, subject to review and approval of the Select Board, and upon the condition that written notice of each such approval shall be submitted promptly to the Advisory Committee and Town Comptroller.

2.) PROCUREMENT CONTRACTS AND LEASES: The Chief Procurement Officer is authorized to lease, or lease with an option to purchase, any equipment or capital item funded within the FY2022 budget, and to solicit and award contracts for terms of not more than four years, provided that in each instance the longer term is determined to be in the best interest of the Town by a vote of the Select Board.

3.) ALLOCATION OF SALARY ADJUSTMENTS: Appropriations for salary and wage adjustments (Item #20) shall be transferred by the Town Comptroller to the various affected departments within (60) days from the beginning of the fiscal year, or in the absence of duly approved collective bargaining agreements, within (60) days of the approval of the collective bargaining agreements by Town Meeting. The Select Board shall determine the salaries, which may include merit adjustments, for employees not included in any collective bargaining agreement.

Should a balance remain after the Town Comptroller has made the transfers specified herein, said balance shall be transferred by the Town Comptroller to a budget line entitled Personnel Services Reserve (Item #19), which shall be used to fund costs incurred over the course of the fiscal year pursuant to employee contracts and/or established personnel policies. The Town Comptroller shall include an accounting of all transfers made from this reserve in the Annual Financial Report.

4.) STIPENDS / SALARIES OF ELECTED OFFICIALS: The stipends of members of the Select Board shall be at the rate of \$4,500 per year for the Chair and at the rate of \$3,500 per year for each of the other four members. The annual salary of the Town Clerk shall be at the rate of \$99,707 effective July 1, 2021, plus any adjustment approved by vote of the Select Board. The Town Clerk shall pay all fees received by the Town Clerk by virtue of their office into the Town treasury for Town use.

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5.) VACANT POSITIONS: No appropriation for salaries, wages, or other compensation shall be expended for any benefit-eligible position which has become vacant during the fiscal year unless the Select Board, at an official meeting, has determined that the filling of the vacancy is

either essential to the proper operation of the Town or is required by law. This condition shall not apply to appropriations of the School Department.

6.) GOLF ENTERPRISE FUND: The following sums, totaling \$2,009,493 shall be appropriated into the Golf Enterprise Fund, and may be expended under the direction of the Park and Recreation Commission, for the operation of the Golf Course:

Total costs of \$2,009,493 to be funded from golf receipts with \$211,102 to be reimbursed to the General Fund for indirect costs.

7.) WATER AND SEWER ENTERPRISE FUND: The following sums, totaling \$30,691,325, shall be appropriated into the Water and Sewer Enterprise Fund, and may be expended under the direction of the Commissioner of Public Works for the Water and Sewer purposes as voted below:

Total costs of \$30,691,325 to be funded from water and sewer receipts with \$2,472,183 to be reimbursed to the General Fund for indirect costs.

8. REVOLVING FUNDS:

- a. The Park and Recreation Commission is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for special recreation programs and events. All receipts from said programs and events shall be credited to the fund. Annual expenditures from the fund shall not exceed \$4,200,000.
- b. The Building Commissioner is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the repair and maintenance of the Town's rental properties, including all those listed in the vote under Article 13 of the Warrant for the 1999 Annual Town Meeting. All receipts from said rental properties shall be credited to the fund. Annual expenditures from the fund shall not exceed \$225,000.
- c. The Commissioner of Public Works is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the construction and reconstruction, upkeep, maintenance, repair and improvement of sidewalks and walkways along public streets and ways over, across and through town owned property. Annual expenditures from the fund shall not exceed \$100,000.
- d. The Director of Planning and Community Development is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2

and Chapter 79 of the Acts of 2005, a revolving fund for the Façade Improvement Loan Program. Annual expenditures from the fund shall not exceed \$30,000.

- e. The Library Director is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the Copier Program. Annual expenditures from the fund shall not exceed \$30,000.
- f. The School Department is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the School bus Program. Annual expenditures from the fund shall not exceed \$75,000.

9.) SCHOOLHOUSE MAINTENANCE AND REPAIR: The sum of \$5,945,631, included within the Building Department appropriation for school building maintenance, shall be expended for School Plant repair and maintenance and not for any other purpose. The listing of work to be accomplished shall be established by the School Department. The feasibility and prioritization of the work to be accomplished under the school plant repair and maintenance budget shall be determined by the Superintendent of Schools and the Building Commissioner, or their designees.

10.) SNOW AND ICE BUDGET: The sum of \$583,331, included within the Department of Public Works appropriation for snow and ice operations, shall be expended for snow and ice operations and not for any other purpose, unless transferred per the provisions of Section 1.B.vi of this Article 9.

11.) INTERFUND TRANSFERS: In order to fund the appropriations voted for the various departments itemized on Table 1, the Town Comptroller is authorized to make the following interfund transfers:

Cemetery Sales Special Revenue Fund \$ 100,000
[to the General Fund for the Department of Public Works]

Recreation Revolving Fund \$545,788
[to the General Fund for benefits reimbursement]

12.) BUDGETARY REPORTING: The Town Comptroller shall provide the Advisory Committee with a report on the budgetary condition of the Town as of September 30, December 31, March 31, and June 30, within 45 days of said dates. This financial report shall include a summary of the status of all annual and special appropriations voted in this article; a report on

the status of all special appropriations voted in prior years which remain open at the reporting date; and a summary of the status of all revenues and inter-fund transfers which have been estimated to finance the appropriations voted under this article.

13.) SPECIAL APPROPRIATIONS: The appropriations set forth as items 35 through 69, inclusive, in Table 1 shall be specially appropriated for the following purposes. In addition, with the exception of Items #64 - 69, they shall be transferred from the General Fund to the Revenue-Financed Capital Fund.

Appropriate sums of money for the following special purposes:

36. Raise and appropriate \$130,000, to be expended under the direction of the Town Clerk with any necessary contracts over \$100,000 to be approved by the Select Board, for replacement of the Town's voting machines.
37. Raise and appropriate \$900,000, or any other sum, to be expended under the direction of the Police Chief, with any necessary contracts over \$100,000 to be approved by the Select Board, for upgrades/replacement of the Police and Fire Department's radio infrastructure.
38. Raise and appropriate \$140,000, with any necessary contracts over \$100,000 to be approved by the Select Board, to be expended under the direction of the Commissioner of Public Works, for parking meter technology upgrades.
39. Raise and appropriate \$140,000, with any necessary contracts over \$100,000 to be approved by the Select Board, to be expended under the direction of the Commissioner of Public Works, for studies related to the upgrade of the traffic signal at the Washington/ Harvard/Kent/Davis intersection.
40. Raise and appropriate \$50,000, to be expended under the direction of the Commissioner of Public Works, for Accessible Pedestrian Signal Conversions.
41. Raise and appropriate \$2,072,224, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of streets.
42. Raise and appropriate \$344,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of sidewalks.
43. Raise and appropriate \$600,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the Washington Street Rehabilitation and Complete Streets Project.

44. Raise and appropriate \$400,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for stormwater improvements, and to meet the appropriation transfer \$400,000 from the retained earnings of the Water and Sewer Enterprise Fund.
45. Raise and appropriate \$280,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for water meter transmission unit (MTU) replacements, and to meet the appropriation transfer \$280,000 from the retained earnings of the Water and Sewer Enterprise Fund.
46. Raise and appropriate \$280,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for Willow Pond environmental restoration and to meet the appropriation transfer \$280,000 from the retained earnings of the Water and Sewer Enterprise Fund.
47. Raise and appropriate \$260,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the renovation of playground equipment, fields, and fencing.
48. Raise and appropriate \$165,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of Town and School grounds.
49. Raise and appropriate \$482,224, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board and the Tree Planting Committee, for the removal and replacement of trees.
50. Raise and appropriate \$85,000, to be expended under the direction of the Building Commissioner for ADA renovations to Town and School facilities.
51. Raise and appropriate \$165,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for energy conservation projects in Town and School facilities.
52. Raise and appropriate \$175,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board, , for improvements to the fire alarm system in Town and School facilities.

53. Raise and appropriate \$170,000, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board and, with respect to School Buildings, by the School Committee, for improvements to life safety systems and building security in Town and School facilities.
54. Raise and appropriate \$1,738,600, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Select Board and the School Committee, for the expansion of classroom capacity in various schools.
55. Appropriate \$2,000,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for water system improvements and to meet the appropriation, authorize the Treasurer, with the approval of the Select Board, to borrow \$2,000,000 under General Laws, Chapter 44, Section 8(5), as amended, or pursuant to any other enabling authority; and authorize the Select Board to apply for, accept, receive and expend grants, aid, reimbursements, loans, and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.
56. Appropriate \$3,000,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for wastewater system improvements and to meet the appropriation, authorize the Treasurer, with the approval of the Select Board, to borrow \$3,000,000 under General Laws, Chapter 44, Section 7(1), as amended, or pursuant to any other enabling authority; and authorize the Select Board to apply for, accept, receive and expend grants, aid, reimbursements, loans, and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.
57. Appropriate \$915,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for improvements at Murphy Playground and to meet the

appropriation authorize the Treasurer, with the approval of the Select Board, to borrow \$915,000, under General Laws, Chapter 44, Section 7(1), as amended, or pursuant to any other enabling authority. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

58. Appropriate \$1,150,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for improvements at Robinson Playground and to meet the appropriation authorize the Treasurer, with the approval of the Select Board, to borrow \$1,150,000, under General Laws, Chapter 44, Section 7(1), as amended, or pursuant to any other enabling authority. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.
59. Appropriate \$750,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Select Board and, with respect to School Buildings, by the School Committee, for building envelope / fenestration repairs to Town and School facilities and to meet the appropriation, authorize the Treasurer with the approval of the Selectmen, to borrow \$750,000 under General Law, Chapter 44, Section 7 (1), as amended, or pursuant to any other enabling authority. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.
14. **FREE CASH:** Appropriate and transfer \$10,401,890 from free cash for the following purposes:
 - a. Operating Budget Reserve Fund (MGL Chapter 40, Section 6) – \$1,707,228;
 - b. Liability/Catastrophe Fund (Chapter 66 of the Acts of 1998, as amended) – \$81,223;
 - c. Stabilization Fund (MGL Chapter 40, Section 5B) - \$2,829,788
 - d. Reduce the tax rate (Special Appropriations) – \$4,839,918;
 - e. Reduce the tax rate (Marijuana Mitigation) -\$862,996

f. Housing Trust Fund – \$80,737;

Approved: Aye: 222 No: 0 Abstained: 3

MOTION to Adjourn, duly seconded

Approved

Night 3: May 25, 2021

- Call to order: 7:00PM
- Meeting called to order by Moderator Poverman
- Moment of silence for George Floyd, Breonna Taylor, and Daunte Wright, whose names must be remembered, said, and known, requested by the Moderator
- Clarification on budget vote provided by the Moderator
- Requests to rearrange items due to scheduling, vote held on each
 - **MOTION** to move Article 37 to be heard first thing Thursday, duly seconded
Approved
 - **MOTION** to move Article 11 to be heard second thing Thursday, duly seconded
Approved
 - **MOTION** to move Articles 19 and 20 to be heard first thing on Tuesday, June 1, duly seconded
Approved

[Assistant Moderator Gadsby Presiding]

ARTICLES 14, 15, 16, and 17
[Debated Together]

Speakers: Paula Friedman (P14), Sean Lynn-Jones (P1), Ana Albuquerque (P1), Chi Chi Wu (P7), Linda Pehlke (P2), Jonathan Karon (P12), Chris Dempsey (P6), Paul Warren (P1), Neil Wishinsky (P5/AC), Scott Gladstone (P16), Susie Roberts (P2), Deborah Brown (P1), Ellen Zucker (Resident), Raul Fernandez (SB/AL), Steve Heikin (Planning Board), Eric Hyett (P10), Clint Richmond (P6), Dan Bennett (Building Commissioner), Mark Levy (P7), Patty Correa (First Assistant Town Counsel), Petra Bignami (P12), Melissa Goff (Deputy Town Administrator), Regina Frawley (P16), Marissa Vogt (P4), Paul Warren (P1), Katherine Silbaugh (P1), Paul Warren (P1), Dan Bennett (Building Commissioner), Linda Pehlke (P2), Susie Roberts (P2), Joyce Graff (Resident), Marcia Lapson (Resident), Roger Blood (Housing Advisory Board), lee Selwyn (P13), Harry Bohrs (P3)

MOTION to terminate debate

Failed

MOTION to terminate debate

Approved

VOTED: That Warrant Articles 14 (other than the contingent motion on page 14-32 of the Combined Reports), 16 and 17 be referred to a committee to be appointed by the Moderator for further study and for a report to the next (fall) Town Meeting.

Failed: Aye: 17 No: 211 Abstained: 8

ARTICLE 17

Amend the Town's General Bylaws pertaining to Short Term Rentals

Submitted by: Paul Warren TMM P1, Chris Dempsey TMM P6, Paula Friedman TMM P14, Ana Albuquerque TMM P1, Sean Lynn-Jones TMM P1, Linda Pehlke TMM P2, Jonathan Karon TMM P12

Motioned and duly seconded

VOTED: That the Town will amend the General By-laws by adding the following article:

Section 5.11.1 PURPOSE

The Town of Brookline adopts this By-law for the regulation and restriction of Short- Term Rentals within the Town in order to protect the health and safety of renters and residents, and to provide a process through which certain properties that meet specific requirements and eligibility criteria may be registered with the Town of Brookline for use as Short-Term Rentals.

Section 5.11.2 DEFINITIONS

As used in this by-law, the following terms shall have the following meanings:

“Enforcement Authority”: As designated by Article 10.2 of the General By-Laws.

“Short-Term Rental”, or “STR”: The rental of a whole or portion of a Dwelling Unit for not more than 27 consecutive calendar days, as otherwise defined by M.G.L. Chapter 64G, Sec. 1, which shall be the Primary Residence of the operator.

In accordance with M.G.L. Chapter 64G, the term excludes properties that are, or that are required by law to be, licensed as a lodging house because the lodgings are rented to four or more persons not within the second degree of kindred to the owner or operator. The term also excludes properties that are, or that are required by law to be, licensed as a hotel, motel, or bed and breakfast establishment.

“Short-Term Rental Unit”: A whole or portion of a whole Dwelling Unit that is being offered as a Short-Term Rental.

“Short-Term Rental Operator”: Any person operating a Short-Term Rental. An Operator must be the owner of the Short-Term Rental Unit.

“Primary Residence”: Any property at which a resident resides for at least 183 days of the calendar year.

Section 5.11.3 ELIGIBILITY/APPLICABILITY

1. Any Short-Term Rental Operator seeking to establish a Short-Term Rental Unit must apply for and receive a Certificate of Registration, following the procedure set forth in Section 5.11.4. The following eligibility requirements shall apply to applicants seeking a Certificate:

- a. The Short-Term Rental Unit cannot be subject to any local, state, or federal income-eligible or income-restricted program that is designated as below market rate housing.
- b. The Short-Term Rental Unit shall not be subject to any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, stop work orders, or other requirements, laws or regulations that prohibit the Operator from offering the residential unit as a Short-Term Rental.
- c. The Short-Term Rental Unit shall not be in arrears regarding any municipal or state taxes, fines or fees. Short-Term Rentals, Short-Term Rental Operators,

and Short-Term Rental Certificates of Registration are subject to Article 4.7 of the Town's General By-laws.

d. The accommodations offered must be compliant with all applicable state and local codes, including building codes, fire codes and health codes.

e. Occupancy (including long term renters on the property) is limited to the number of bedrooms multiplied by 2, up to a maximum of eight (8) guests provided, however, that any occupancy in excess of three (3) persons who are not within the second degree of kindred to the person conducting the Short-Term Rental must be in compliance with state and local law, regulations and code. In addition, a Short-Term Rental shall not operate in the same property as a lodging house as defined by law.

2. Nothing in this By-law shall be construed to make the Town responsible for compliance with or enforcement of a lease, condominium by-laws or other governing documents, or any contract or agreement to which the Town is not a party.

Section 5.11.4 REGISTRATION PROCEDURE AND SUBMISSION REQUIREMENTS

1. In connection with an application for a Certificate of Registration, the operator shall provide to the Select Board's Office all documentation that the Office shall require, which shall include, but not be limited to:

a. Any application fee, as may be determined by the Select Board.

b. Proof of Primary Residence, either by: 1) providing proof of enrollment in the Brookline residential tax exemption program; or 2) documentation necessary to otherwise qualify the operator for the Brookline residential tax exemption showing the current address of the Operator as the address of the STR. Additionally, Primary Residency must also be certified at the time of application and not less than once per calendar year thereafter by an affidavit in a form provided by the Town and signed by the Operator.

c. Where a Short-Term Rental Unit is part of a condominium association, a certification signed by the condominium association that the condominium Master Deed, By-Laws, or other governing documents expressly permit the proposed Short-Term Rental.

d. Floor plan of the Short-Term Rental Unit indicating the specific rooms to be offered. The floor plan shall identify each room by a numerical or alphabetical identifier. The floor plan may be sketched by hand but should be legibly labelled with the numerical or alphabetical identifier and the use of that room (e.g., bedroom, living room, etc.). The floor plan should identify the rooms to be used as sleeping accommodations and the proposed maximum occupancy for each. An operator may be asked to resubmit a floor plan with amendments in the event it is unacceptable to the Town's inspectional departments for health and/or safety or code compliance reasons.

e. Local Contact Information. When registering, a Short-Term Rental Operator must provide their name, address, home telephone number, cell phone number, and email address, as well as such contact information for a secondary contact. Such contact information should identify at least one individual with corresponding contact information (including an active telephone number at which the person will be reachable 24 hours a day) who can respond in person within two hours of contact by a Town official to any issue or emergency that arises during a Short-Term Rental.

f. Such other information and documentation as the Select Board's Office may determine.

g. Except as may be otherwise specified by Select Board regulation promulgated pursuant to this By-Law following a public hearing, within 14 days of the issuance of any Certificate of Registration, the Select Board Office shall mail notice of the Certificate of Registration to adjacent abutters (property owners, residents, and tenants) of the Short-Term Rental Unit.

2. The initial issuance and renewal of a Certificate of Registration shall be subject to the applicant's compliance with applicable federal, state and local law, including this By-Law.

3. The Certificate of Registration shall be valid for a period of one (1) to five (5) years, as the Select Board's Office may determine. The Certificate of Registration shall include a registration number, and shall identify the type of Short-Term Rental, the specific rooms that may be used as sleeping accommodations, and the maximum occupancy for each such room and for the unit as a whole.

4. An operator may seek modification of a Certificate of Registration, including with regard to rooms to be used as sleeping accommodation and maximum occupancies, by submitting such documentation as may be required by the Select Board's Office in connection with such request. Modification of a Certificate of Registration is subject to approval by the Town's Health, Building and Fire Departments, who may conduct a pre-approval health and safety inspection as necessary. No modification of a Certificate may effect a change to the type of Short-Term Rental for which the Certificate was issued.

5. Certificates of Registration are non-transferable. A Certificate of Registration shall be null and void upon a change in property owner or upon any change in the Primary Residence of the Short-Term Rental Operator that makes the unit ineligible for operation as a Short-Term Rental under this By-law.

6. An Enforcement Authority may revoke, suspend or modify a Certificate of Registration for good cause. The Short-Term Rental Operator shall have the right to a hearing, or opportunity therefor, in connection with such action.

7. Should the Short-Term Rental Operator be issued three (3) or more violation notices within any twelve (12) month period under this article, or arising from any violation of any municipal ordinance, state law, or building code, the Certificate of Registration will be revoked. In such

case, a new Certificate of Registration may only be re-issued after a public hearing before the Select Board, which may, impose additional conditions. In the event an Enforcement Authority suspends or revokes an operator's right to operate an STR, the Town shall notify the Massachusetts Commissioner of Revenue of the suspension or termination.

Section 5.11.5 INSPECTIONS

Prior to approving an initial Certificate of Registration, the Health, Building and Fire Departments shall conduct a health and safety inspection. Such inspections may be conducted upon renewal or in connection with an annual or other inspectional schedule to be determined by the Town. Such inspections may be used to verify that each Short- Term Rental Unit:

1. Meets all building, health and fire code and regulatory requirements.
2. Meets all requirements of this By-Law and of any regulations promulgated pursuant to this By-law.

Inspections shall be made on week-days during normal Town business hours. In addition, inspections may be made at other times (including but not limited to evenings and weekends) to investigate complaints and/or concerns regarding non-compliance or health and safety issues. Inspections shall be conducted in conformity with applicable federal, state and local law. Facilities requiring re-inspection are subject to applicable re- inspection fees.

Section 5.11.6 OPERATIONAL REQUIREMENTS FOR SHORT-TERM RENTAL UNITS

1. No person shall operate a Short-Term Rental without a current Certificate of Registration pertaining to the Short-Term Rental Unit.
2. Short-Term Rentals shall comply with all applicable federal, state, and local laws, regulations and codes.
3. A Short-Term Rental Operator may rent their Short-Term Rental Unit for up to 90 days per year. Upon the request of an applicant, the Select Board, following a set of criteria established by the Select Board and following a public hearing, may increase the number of rental days up to a maximum of 180 days per year under the Certificate of Registration.
4. A Short-Term Rental must be operated consistent with the terms set forth on the Certificate of Registration and with applicable law, including, but not limited to, with regard to rooms to be used as sleeping accommodations, the maximum occupancy of each room, the maximum occupancy of the unit as a whole, and any other stated conditions.
5. The following must be included within each Short-Term Rental Unit:
 - a. Diagram indicating the location of all fire extinguishers, gas shut-off valves, fire exits and fire alarms inside the Short-Term Rental Unit, as well as in the building, as well as an

evacuation route(s) highlighted in red. The diagram shall be posted (i) in each bedroom used as a Short-Term Rental, (ii) on all egresses from the Short-Term Rental Unit, and (iii) in common areas accessible to the Short-Term Rental Unit;

b. A conspicuously placed binder with, at a minimum, the following information:

i. Local contact information including the name, address, home and cell phone numbers and email address for the Short-Term Rental Operator as well as one additional contact person who shall be reachable 24 hours a day in the absence of the Operator,

ii. Instructions for disposal of trash and recycling pursuant to any applicable requirements established by the Town of Brookline and/or by the property owner or condominium association,

iii. Information about Brookline parking regulations, including overnight parking restrictions and designated parking areas for guests, and

iv. Copy of Certificate of Registration from the Select Board's Office.

c. Fire extinguisher(s) which shall be of type ABC 10lb., dry chemical commercial with a tag to be tested and serviced annually by certified service company. Within a single-family unit, or multiple-unit building where units do not share a common access corridor, there shall be at least one acceptable type fire extinguisher available to the occupant within the unit. Where multiple units share a common access corridor on the same floor, one extinguisher may service up to four units, and be located within the access corridor on the same floor in a location to be determined by the Fire Department;

d. A hard-wired smoke/fire alarm system installed in accordance with M.G.L. Chapter 148 and NFPA 72; and

e. Any other documentation required by the Select Board's Office to be distributed inside Units.

6. Public advertisements (online or in print) for a Short-Term Rental shall include in the advertisement the Town-issued registration number associated with the Short-Term Rental's Certificate of Registration. A Short-Term Rental Operator shall only use the name stated on the application for an initial or renewed Certificate of Registration in on line or other listings of the Short-Term Rental Unit.

7. A Short-Term Rental Operator must keep accurate records of their business including date(s) of rental, rental rates, names of customers and customers' contact information for a period of three (3) years, and make them available to the Town upon request consistent with applicable federal, state and local law.

8. A Short-Term Rental Operator shall notify the Select Board's Office of any change in the Operator's Primary Residence within two (2) weeks of any change.

9. Renting for durations of less than twenty-four (24) consecutive hours shall not be permitted.

10. Commercial uses are prohibited in Short-Term Rental Units.

11. Short-Term Rental Operators shall cooperate and comply with lawful requests for information made by the Select Board's Office and its agents, including from the Planning, Building, Health, Police, Fire and Public Works Departments. Such requests may include requests for by-laws and other condominium documents in order to verify certification(s) submitted to the Town in connection with a Short-Term Rental Certificate of Registration.

Section 5.11.7 REGULATIONS

The Select Board may issue regulations for the implementation of this By-law, including but not limited to, for the establishment of any appeal process, and for the establishment of a cap on the number of Certificates of Registration issued.

Section 5.11.8 APPEALS

Unless provided otherwise by Select Board regulations, any person aggrieved by the action or failure to act of a certifying agent shall have the right of appeal to the Select Board. Such appeal must be made in writing and filed with the office of the Select Board within fourteen days from the date action was taken. If the party aggrieved appeals from a failure of a certifying agent to act within forty-five days from the filing of an application, such appeal shall be made in writing and filed with the office of the Select Board within sixty days from the date of application.

Section 5.11.9 FINES

Any person violating this By-law shall be fined in the amount of \$100 for the first violation, \$200 for the second violation, and \$300 for the third and any subsequent violations. Each day of a continuing violation during the rental period shall count as a separate violation.

Section 5.11.10 REPORTING

1. A list of Short-Term Rental Units with active Certificates of Registration will be published on the Town website and updated at least monthly. Information must include address, Short-Term Rental type, Certificate of Registration effective and expiration dates, approved number of rooms and guests and any other restrictions.

Section 5.11.11 EFFECTIVE DATE

These amendments to the General By-law shall take effect on January 1, 2022.

Section 5.11.12 SEVERABILITY

If any provision(s) of this Article 5.11 of the General By-law is held to be invalid, such provision(s) shall be severed and the remaining sections shall be valid.

Approved: Aye: 220 No: 9 Abstained: 9

ARTICLE 16

Amend Article 10.2 of the Town's General Bylaws pertaining to the enforcement of Short Term Rental Regulations

Submitted by: Moderator's Committee on Short-Term Rentals. Paula Friedman, chair

Motioned and duly seconded

VOTED: That the Town will amend Article 10.2 (Prosecutions and Enforcement) of the General By-Laws as follows (additions are in bold underlining):

ARTICLE 10.2

PROSECUTIONS AND ENFORCEMENT

The provisions in Parts V, VI, VII and VIII of the by-laws of the Town of Brookline shall be enforced and violations prosecuted by any police officer of the town. In addition, enforcement and prosecution of the following bylaws and articles shall be by the following department head or their designees:

DEPARTMENT HEAD	ARTICLE
BUILDING COMMISSIONER	Part V – Private Property Articles 5.2, 5.3, 5.4 5.6, 5.7, 5.8, 5.11 (5.11 (“Short-Term Rentals”) to be effective January 1, 2022)
DIRECTOR OF HEALTH & HUMAN SERVICES	
Part V – Private Property	Articles 5.1, 5.2, 5.4, 5.5, 5.7,
FIRE CHIEF	5.11 (5.11 (“Short- Term Rentals”) To be effective 1/1/22)
Part V – Private Property (“Short-Term Rentals”)	Articles 5.11 (5.11 To be effective 1/1/22)
TOWN ADMINISTRATOR	
Part V – Private Property (“Short-Term Rentals”)	Articles 5.11 (5.11 To be effective 1/1/22)

Approved: Aye: 221 No: 6 Abstained: 7

ARTICLE 14

Amend the Town's Zoning Bylaws pertaining to Short Term Rentals

Submitted by: Anthony Ishak, Kate Silbaugh TMM1, Maura Toomey TMM8, Nancy Daly TMM12

Motioned and duly seconded

VOTED: That the Town will amend the Zoning By-law as follows:

5. By amending §2.19, “S” Definitions, as follows: Inserting the following:

1. Short-Term Rental (or “STR”) – The rental of a whole or portion of a Dwelling Unit for not more than 27 consecutive calendar days, as otherwise defined by M.G.L. Chapter 64G, Sec. 1, which shall be the Primary Residence of the operator.

In accordance with M.G.L. Chapter 64G, the term excludes properties that are, or that are required by law to be, licensed as a lodging house because the lodgings are rented to four or more persons not within the second degree of kindred to the owner or operator. The term also excludes: (a) properties that are, or that are required by law to be, licensed as a hotel, motel, or bed and breakfast establishment, and (b) Accessory Dwelling Units (as defined and permitted

otherwise by the Town’s Zoning Bylaw) or their associated primary dwelling units.

2. Short-Term Rental Operator – Any person operating a Short-Term Rental. An Operator must be the owner of the Short-Term Rental Unit.

3. Short-Term Rental Unit – A whole or portion of a whole Dwelling Unit that is being offered as a Short-Term Rental.

And increasing each subsequent section number by 3.

6. By amending §2.16, “P” Definitions, as follows:

Renumbering the five existing sections titled “PARKING GARAGE OR PARKING AREA, NON-RESIDENTIAL”, “PARKING GARAGE OR PARKING AREA, RESIDENTIAL”, “PORCH, ENCLOSED AND UNENCLOSED”, “PRIVATE CLUB OR LODGE”, and “PROFESSION, RECOGNIZED” as sections

1, 2, 3, 5, 6 respectively and inserting the following after “3. PORCH, ENCLOSED AND UNENCLOSED”:

4. Primary Residence – Any property at which a resident resides for at least 183 days of the calendar year.

7. By amending §4.07, Table of Use Regulations, as follows:

Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
<u>51C. Short-Term Rentals in possession of a valid Town Certificate of Registration and in accordance with §4.14 only.</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>

8. By amending the Use Regulations by adding the following section, §4.14,

Short- Term Rentals:

§4.14 – SHORT-TERM RENTALS

5. Purpose

This section is intended to protect the health and safety of visitors and residents, ensure that the primary use of these properties remains as a residence, and to minimize the effect Short-Term Rentals have on the character and livability of residential neighborhoods and the well-being of surrounding residents.

6. Applicability

c. The requirements of this section shall apply to any Short-Term Rental. No property shall be offered as a Short-Term Rental except in compliance with each of the provisions of this By-Law.

d. Nothing in this By-Law shall be construed to make the Town responsible for compliance with or enforcement of condominium by-laws or other governing documents, or any contract or agreement to which the Town is not a party.

7. Requirements

Short-Term Rentals shall comply with all applicable federal, state, and local laws, regulations and codes, including, but not limited to, the Town’s General By-law entitled “Short-Term Rentals”.

8. Severability

If any provision(s) of this section is held to be invalid, such provision(s) shall be severed and the remaining sections shall be valid.

These amendments to the Zoning by-law shall take effect on January 1, 2022.

Approved: Aye: 202

No: 28

Abstained: 5

ARTICLE 12

Amend Articles 2.5 and 2.2 of the Town’s General Bylaws to require certain roll-call votes in the Combined Reports

Submitted by: Mike Toffel, TMM 8 and Neil Gordon, TMM1

Motioned and duly seconded

Presented by: Neil Gordon

Speakers: Neil Gordon (P1/AC), Miriam Aschkenasy (SB/AL), Michael Sandman (P3/AC), Michael Toffel (P8), Gil Hoy (P13)

VOTED: That the Town adopt the following amendment of the General Bylaws:

Articles 2.5.2 and 2.2.6 of the Town's General By-laws as follows (language to be stricken appearing in strikeout, language to be added appearing in underline):

SECTION 2.5.2 COMBINED REPORTS

The explanation and relevant data submitted by the petitioners for a petition article shall be included, together with article, in the combined reports. The Select Board and the Advisory Committee (or in the alternative to the full Advisory Committee a subcommittee of the Advisory Committee) each shall hold at least one duly noticed public hearing prior to a final vote of the Select Board or the Advisory Committee, as the case may be, on any article in the Warrant. The Select Board and the Advisory Committee shall prepare written reports, stating their recommendations and the reasons therefor, for all articles in the

Warrant for a Town Meeting. The reports shall be included in the combined reports to be delivered or mailed as follows:

The Select Board shall cause one copy of the combined reports to be delivered or mailed not later than the seventh day prior to each special Town Meeting and not later than the fifteenth day prior to the start of each Annual Town Meeting, to the residence of every elected officer, Town Meeting Member and member of the Advisory Committee, and to the residence of every appointed officer, resident, real estate owner and town employee who requested, in writing, a copy of that combined reports. The combined reports shall contain each article in the warrant for such Town Meeting followed by the report of the Select Board on such article and then the report of the Advisory Committee on such article and every report made, not later than the twenty-second day prior to such Town Meeting and after the twenty-second day prior to the previous Town Meeting, by a Special Committee created by a Town Meeting or the Moderator.

The Combined Reports, and any supplement thereto, shall include, with each recommendation of ~~the Select Board~~ any Town board, committee, or commission, a rollcall showing the vote of each member; ~~and shall include, with each recommendation of the Advisory Committee such information as is required by Article 2.2.6 Recorded Votes.~~ When a minority report is presented by any Town board, committee, or commission, the Combined Reports, and any supplement thereto, shall identify the members supporting the minority report.

The report of the Select Board on the article at an Annual Town Meeting providing for termination and close-out of prior special appropriations shall include a statement from the Comptroller listing each account for such an appropriation as falls within the scope of the article, the purpose of the

appropriation, and the unexpended balance as of the last day of March in the year of said Annual Town Meeting.

SECTION 2.2.6 RECORDED VOTES

(i) Whenever the Advisory Committee shall have voted on a recommendation ~~to the Town, and unless such vote is unanimous~~, the record of such vote shall accompany any report of such recommendation ~~to the Town and shall be included in the minutes of the Advisory Committee~~, in each case showing the date of such vote and those members who voted in favor, opposed, or abstained.

(ii) Whenever the Advisory Committee shall have voted on a transfer of funds, ~~and unless such vote is unanimous~~, the record of such vote shall be included in the minutes of the Advisory Committee, in each case showing those members who voted in favor, opposed, or abstained.

Approved: Aye: 220 No: 5 Abstained: 5

[Moderator Poverman presiding]

ARTICLE 13

Amend Article 3.14 of the Town's General Bylaws to extend the effective date of amendments to Article 3.14 adopted by Town Meeting on December 12, 2019

Submitted by: Mariah Nobrega on behalf of the Commission for Diversity Inclusion & Community Relations

Motioned and duly seconded

Presented by: Mariah Nobrega

Speakers: Maria Nobrega (P4), Raul Fernandez (SB/AL), Kim Smith (P6/AC), James Franco (P1)

VOTED: That the Town will vote to amend Bylaw 3.14 as follows: (Language amended is in **bold**; deletions are in ~~strikeout~~.)

SECTION 3.14.8 EFFECTIVE DATE OF DECEMBER 12, 2019 AMENDMENTS

"The amendments, as indicated in strikethrough, bold and underlined, adopted on December 12, 2019, become effective July 1, ~~2021~~**2022**."

Approved: Aye: 226 No: 2 Abstained: 3

ARTICLE 18

Amend the Town's Preservation Commission and Historic Districts Bylaw to extend the
Lawrence Local Historic District

Submitted by: Preservation Commission

Motioned and duly seconded

Presented by: Elton Elprin

Speakers: Elton Elperin (Preservation Commission), John Doggett (P13/AC), Claire Bean (Resident), Amanda Zimmerman (P7), Sean Lynn-Jones (P1), Michael Zoorob (P3), John VanScoyoc (SB/AL), Lisa Shatz (P11), Steven Heikin (Planning Board), Chi Chi Wu (P7), Gerald Tuckman (P9), James Franco (P1), Sean Lynn-Jones (P1), Linda Roseman (P14), Andrew Lowenstein (Resident), Jane Gilman (P3)

MOTION to terminate debate

Approved

VOTED: That the Town amend Article 5.6 of the Town's By-laws, entitled Preservation Commission & Historic Districts By-law, in the following manner: By deleting Section 5.6.3. (f) and substituting new section 3 (f) therefore (additions in **bold faced** text):

(f) Lawrence Local Historic District

There is hereby established an Historic District, to be entitled the "Lawrence Historic District", the boundaries of which are shown on the map entitled "Lawrence Historic District **as extended**", a copy of which is on file with the Town Clerk's office, which accompanies and is hereby declared to be part of this By-law **and which supersedes the map entitled "Lawrence Historic District."**

Failed: Aye: 152 No: 77 Abstained: 10

Town Clerk Note: A motion to reconsider Warrant Article 18 was approved on Night 4 of Town Meeting, negating this vote. Debate on Warrant Article 18 continued on Night 4 and Night 5, and a final vote on Warrant Article 18 occurred on Night 5 of the 2021 Annual Town Meeting.

MOTION to Adjourn, duly seconded

Approved

Night 4: May 27, 2021

- Call to order: 7:00 PM
- Meeting called to order by Moderator Poverman
- Point of Order: Mike Offner (P12)
- Moderator announced that all motions to call the question would now be recorded votes
- Updated votes announced by the Moderator
- **MOTION** to move articles 19 and 20 to June 3, duly seconded
Approved
- **MOTION** to reconsider the vote on Article 18 from May 23, 2021, duly seconded
 - Point of Order: Shanna Giora Gorfajn (P11)
 - Request for reconsideration was read aloud by the Moderator. The request read as follows: “Good morning Madam Moderator. I voted no on Article 18 and am requesting reconsideration. I understand that there was confusion over what development would be allowed at the site and whether or not this was a zoning change or a bylaw change. I also feel that debate was cutoff too quickly. There were many people left in the queue to speak that Town Meeting should have had the opportunity to hear from. Thank you in advance. You may call me if you have any questions. Have a great day. Best Regards, Donelle S O'Neal, Sr. Brookline TMM4”
Approved: Aye: 138 No: 86 Abstained: 8

ARTICLE 37

Resolution pertaining to the declaration of a Climate Emergency and adoption of a Climate Crisis Action Plan

Submitted by: Maya Norton, Sasha Kalvert

Motioned and duly seconded

Presented by: Maya Norton

Speakers: Maya Norton (Resident), Bernard Greene (SB/AL), Sasha Kalvert (Student), Brian Ly (Student), Alice MacGarvie Thompson (Student), Sarah Mautner-Mazlen (Student), Tal Canetti (Student), Alok Somani (AC), Christi Electris (P7), Girl Scout Troop 82545 (via video), Elisabeth Cunningham (P15), John Harris (P8), Cornelia Van Der Ziel (P15), Bonnie Bastien (P5)

VOTED: That the Town will adopt the following Resolution:

WHEREAS, in April 2016, world leaders from 175 countries recognized the threat of climate change and the urgent need to combat it by signing the Paris Agreement, agreeing to keep warming, “well below 2°C above pre-industrial levels” and to “pursue efforts to limit the temperature increase to 1.5°C”; and

WHEREAS, national security experts agree that climate emergency is a threat multiplier contributing to the Earth’s 6th mass extinction of species; and the present level of global warming has triggered catastrophic changes to the Earth’s system, including increased wildfires, heat waves, droughts, flash floods, rising seas, and extreme weather; and continued global warming would further intensify the melting of the glaciers, polar ice sheet collapse, accelerating sea level rise, superstorms, hurricanes, mosquito-borne diseases, water and food shortages, and civil unrest; and

WHEREAS, across the world, nearly 2,000 local governments in 34 countries have declared climate emergencies, including over 20 communities in Massachusetts—these emergency declarations being an urgent call to action to change our current systems, which incur devastation in our regions and contribute, in each and every community, and by each and every person, to the climate crisis; and

WHEREAS, the Town of Brookline has made significant investments in climate action over the past 20 years through robust partnerships among the public and nonprofit sectors; And

WHEREAS, the Town of Brookline can act as a leader by taking concrete steps to catalyze a regional Just Transition and urgent climate crisis mobilization for Life After Peak Oil;

NOW THEREFORE BE IT RESOLVED that the Town of Brookline declare a Climate Emergency, recognizing the climate crisis and what it demands of us: an emergency response at emergency speed; and

BE IT FURTHER RESOLVED that the Town of Brookline create and adopt an aggressive and strategic Climate Crisis Action Plan, setting a new target for net zero carbon emissions with a goal of 2040—reduced from the existing target date of 2050—and establishing a plan for carbon neutrality in the earliest economically and technically feasible timeline; and

BE IT FURTHER RESOLVED that the Town of Brookline commit to keeping the outcomes of vulnerable communities integral to all Just Transition and urgent climate mobilization efforts; and

BE IT FURTHER RESOLVED that the Town of Brookline invest in public education and action with the mandate of acting with urgency in creating adaptations for Life After Peak Oil and the climate crisis that is upon us, with a recommended annual Climate Action Summit, bolstered by strategic working teams acting on specific targets throughout the year.

Approved Aye: 228 No: 1 Abstained: 4

ARTICLE 11

Amend Article 2.1 of the Town’s General Bylaws to include a statement in Town Meeting Procedures acknowledging the history of Indigenous people in Brookline

Submitted by: Indigenous People Celebration Committee, Maya Norton lead petitioner

Motioned and duly seconded

Presented by: Raul Fernandez

Speakers: Raul Fernandez (SB/AL), Arthur Conquest (on behalf of Raquel Halsey), Arthur Conquest (P6), Cornelia Van Der Ziel (P15) Olivia Fischer Fox (P5), Michael Sandman (P3/AC), Maya Norton (Resident), Felina Silver Robinson (Resident), Nicole McClelland (P11), Robert Lepson (P9), Jane Gilman (P3), Miriam Aschkenasy (SB/AL), Deborah Brown (P1), Martin Yaseen (P2), Raul Fernandez (SB/AL), Gil Hoy (P13), Joslin Murphy (Town Counsel), Bonnie Bastien (P5), David Day (P16), Jonathan Karon (P12), Raul Fernandez (SB/AL), Mark Levy (P7), Scott Ananian (P10), Nicole McClelland (P11), Kay Van Der Ziel (P15)

MOTION to terminate debate

Failed: Aye: 136 No: 90 Abstained: 6

MOTION to terminate debate

Failed: Aye: 133 No: 83 Abstained: 9

MOTION to terminate debate

Approved: Aye: 174 No: 40 Abstained: 13

VOTED That the Town amend section 2.1.11 of the Town by-laws by adding a new fourth paragraph to read as follows:

“Following the singing of the National Anthem, an acknowledgement of the history of Indigenous people in Brookline shall be read by the chair or a designee of the Indigenous People Celebration Committee.”

Approved: Aye: 203 No: 20 Abstained: 14

[Recess at 9:14PM. Reconvene at 9:22PM]

Discussion on remaining Articles and the need to finish prior to end of State of Emergency due to Virtual Town Meeting restrictions.

Speakers: Kate Poverman (Moderator/AL), Joslin Murphy (Town Counsel), Tommy Vitolo (State Representative/AL), Melissa Goff (Deputy Town Administrator).

Spring 2021 Special Town Meeting

MOTION to adjourn Special Town Meeting until after Article 18 is reconsidered, or June 1, duly seconded.

Approved

ARTICLE 18 (Reconsideration)

Amend the Town's Preservation Commission and Historic Districts Bylaw to extend the Lawrence Local Historic District

Submitted by: Preservation Commission

Speakers: Polly Selkoe (Assistant Director of Planning), Chris Dempsey (P6), Natalia Linos (P6), Rebecca Mautner (P11), Paul Warren (P1), Michael Zoorob (P3), Clint Richmond (P6), Wendy Friedman (P5), Marissa Vogt (P4), Kate Silbaugh (P1), Scott Ananian (P10), Elton Elperin (Preservation Commission), Maria

Nobrega (P4), Susie Roberts (P2), Lauren Bernard (P8), Naomi Sweitzer (P10), Vena Priestly (P4), Susan Park (P2), Cathleen Cavell (P1), Mike Toffel (P8), Clint Richmond (P6), Scott Gladstone (P16), Carlos Ridruejo (P14)

MOTION to Adjourn, duly seconded
Approved

Night 5: June 1, 2021

- Call to order: 7:00PM
- Meeting called to order by Moderator Poverman
- **MOTION** to move Article 23 to June 3rd, duly seconded.

Approved

ARTICLE 18 (Reconsideration Continued)

Motioned and duly seconded

Speakers: Cathleen Cavell (P1), Anthony Flint (P5), Harry Bohrs (P3), Jeffrey Benson (P3), Elton Elperin (Preservation Commission), Isaac Silberberg (P8), Murray Dewart (P3), Sean Lynn-Jones (P1), Michael Sandman (P3/AC), Amanda Zimmerman (P7), Martin Rosenthal (P9), Lauren Bernard (P8), Linda Pehlke (P2), Ben Hellerstein (P2), Kathleen Scanlon (P3), Nicole McClelland (P11), Neil Gordon (P1/AC), Natalia Linos (P6), Mark Levy (P7), Neil Wishinsky (P5), Marissa Vogt (P4), Jane Gilman (P3), John Buchheit (Associate Town Counsel), Kate Silbaugh (P1)

MOTION to terminate debate

Approved: Aye: 193 No: 31 Abstained: 10

VOTED: To refer the subject matter of article 18 to a Moderator's Committee, to report its recommendations so that they can be included in the Warrant for Town Meeting in the Fall of 2021.

Failed: Aye: 83 No: 149 Abstained: 3

VOTED: That the Town amend Article 5.6 of the Town's By-laws, entitled Preservation Commission & Historic Districts By-law, in the following manner: By deleting Section 5.6.3. (f) and substituting new section 3 (f) therefore (additions in bold faced text):

(f) Lawrence Local Historic District

There is hereby established an Historic District, to be entitled the "Lawrence Historic District", the boundaries of which are shown on the map entitled "Lawrence Historic District as extended", a copy of which is on file with the Town Clerk's office, which accompanies and is hereby declared to be part of this By-law **and which supersedes the map entitled "Lawrence Historic District."**

Failed: Aye: 153 No: 77 Abstained: 11

MOTION to Recess for 5 Minutes, duly seconded.

Approved

[Recess at 8:25PM, Reconvene at 8:35PM]

Spring 2021 Special Town Meeting

Articles 1 and 2 (Debated Together)

Submitted by: Advisory Committee

Motioned and Duly Seconded

Presented by Deborah Brown

Speakers: Deborah Brown (P1), Bernard Greene (SB/AL), Emy Takinami (P10), Michael Sandman (P3/AC), Kimberley Richardson (P2), Bonnie Bastien (P5), Nancy Daly (P12), Gil Hoy (P13), Mel Kleckner (Town Administrator), Heather Hamilton (SB/AL), Mark Levy (P7), John VanScoyoc (SB/AL)

MOTION to terminate debate

Approved: Aye: 168 No: 49 Abstained: 10

ARTICLE 1

VOTED: That the Town adopt the following resolution:

WHEREAS, Brookline is an affluent community, but 12% of its residents live below the poverty level. Over 30% of its residents struggle to pay their bills. Senior single women and women head of households are especially vulnerable;

WHEREAS, this Warrant Article is about Brookline's humanity and our willingness as a community to help those most in need;

WHEREAS, this Warrant Article seeks to bridge the gap between our aspirations as a progressive community and to actually provide essential services for some of our most vulnerable residents;

WHEREAS, internet access is critical to the health, education and wellbeing of Brookline residents;

WHEREAS, the Brookline Housing Authority lacks the resources, despite its best efforts, to provide WIFI for its residents;

WHEREAS, at least \$140,000 is needed to ensure that all BHA residents have access to WIFI;

RESOLVED THAT: Town Meeting urges the Select Board to use its authority, promptly, to undertake discussions with the Brookline Housing Authority to identify no less than \$140,000 from Brookline resources like, but not limited to, federal stimulus dollars, to upgrade and expand WIFI access at BHA properties.

ARTIVLE 2

VOTED: That the Town adopt the following resolution:

WHEREAS, Brookline is an affluent community, but 12% of its residents live below the poverty level. Over 30% of its residents struggle to pay their bills. Senior single women and women head of households are especially vulnerable;

WHEREAS, this Warrant Article is about Brookline's humanity and our willingness as a community to help those most in need;

WHEREAS, Brookline Housing Authority has aggressively sought to secure funds to make these essential repairs to its housing with minimal success;

WHEREAS, the kitchens at High Street, Veterans, Trustman and Egmont are in dire need of repairs;

WHEREAS, this Warrant Article seeks to bridge the gap between our aspirations as a progressive community and to actually provide essential services for some of our most vulnerable residents;

WHEREAS, at least \$625,000 is needed to repair a fraction of Brookline Housing Authority's (BHA's) worst state funded housing (25 of 375) kitchens and bathrooms;

NOW THEREFORE BE IT RESOLVED THAT: Town Meeting urges the Select Board to use its authority, promptly, to undertake discussions with the Brookline Housing Authority to identify no less than \$625,000 from Brookline resources like, but not limited to, federal stimulus dollars to repair units at BHA.

Joint motion: Special Town Meeting Articles 1 & 2

Approved: Aye: 220 No: 4 Abstained: 9

MOTION to dissolve special town meeting, duly seconded

Approved

[Special Town Meeting dissolved at 9:16PM. Annual Town Meeting reconvened at 9:16PM]

ARTICLE 21

Amend the Town's Zoning Bylaws pertaining to micro unit dwellings and age restricted units in the Emerald Island Special District

Submitted by: Planning and Community Development Department

Motioned and duly seconded

Presented by Heather Hamilton

Speakers: Heather Hamilton (SB/AL), David Pollak (P11/AC), Steve Heikin (Planning Board), Lisa Cunningham (P15)

VOTED: That the Town will:

1. Amend Section 2.04.3 of the Town of Brookline Zoning By-law as follows (deletions appearing in strikeout, new language in underline):

§2.04 – “D” DEFINITIONS

...

3. DWELLING

Dwelling, Attached: A building designed or occupied as a resident and separated from another attached dwelling on one or both sides either by a vertical party wall or walls or by a contiguous wall or walls without side yards.

- a. Dwelling, Detached: A building which is designed or occupied as a residence and is substantially separated by side yards from any other structure or structures except accessory buildings.
- b. Dwelling, Multiple: A building or structure designed or occupied as a residence by more than three families, but not including groups of attached dwellings; an apartment house.
- c. Dwelling, Live/Work Space: A building or any portion thereof containing common work space areas and/or dwelling units measuring no more than 900 square feet in gross floor area per unit that are used by at least one occupant as both their primary residence and primary work/artist studio space, including use 46 (Light Non-Nuisance Manufacturing) and 58A (Home Office) as certified annually by the property owner with the Building Commissioner.
- d. ~~Dwelling, Age Restricted: A building where all residents are 62 years of age or older. Such units shall be subject to an age restriction described in a deed, deed rider, restrictive covenant, or other document in a form reasonably acceptable to Town Counsel that shall be recorded at the Registry of Deeds or the Land Court. Age and occupancy restrictions shall not preclude reasonable, time limited guest visitation rights or accommodation for caretakers for the primary resident. The age and occupancy restrictions shall be enforceable solely against the violating unit and not the development as a whole, by the owner of one or more dwelling units or by the Town of Brookline. In the event of a violation, and at the request of the Town, the owner of the unit shall comply with the age and occupancy restrictions.~~

- e. ~~Dwelling, Micro Unit: A building or any portion thereof containing residential units measuring no greater than 500 square feet in gross floor area per unit. Buildings containing Micro Units may have flexible common areas for living and/or working.~~

2. Amend Section 4.07, Use 6C and Use 6D of the Town of Brookline Zoning By-law as follows (deletions appearing in strikeout, new language in underline):

3.

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
6C. Dwelling, Age Restricted *Permitted by special permit in the I- (EISD) District in accordance with 5.06.4.j.	No	No	No	No	No	No	No	No	No*
6D. Dwelling, Micro Unit *Permitted by special permit in the I- (EISD) District in accordance with 5.06.4.j.	No	No	No	No	No	No	No	No	No*

4. Amend Section 5.06.4.j of the Town of Brookline Zoning By-law as follows (deletions appearing in strikeout, new language in underline):

j. *~~Emerald Island Special District~~*

- 1) The Emerald Island Special District – the area bounded by River Road, Brookline Avenue, and Washington Street – is an area in transition. It has been determined through study by the River Road Study Committee that specific zoning parameters are required to encourage appropriate redevelopment of this district. In developing these zoning parameters, due consideration has been given to the prominent location of this area as a major gateway to Brookline. The proximity of the Muddy River, Emerald Necklace, Longwood Medical Area as well as the differences in the scale of existing buildings, recently permitted and proposed developments, access to transit, and the solar orientation of sensitive nearby uses, including the residences of Village Way and Emerald Necklace Park all combined to shape the Special District parameters. Following a comprehensive study by financial, architecture, urban design and real estate experts, the Committee further concluded that the following

concepts related to allowed uses, building heights, building form, parking requirements and the public realm are appropriate for this Special District.

2) Definitions. For the purposes of Section 5.06.4.j, the following terms shall have the listed definitions:

a. Micro Unit Dwelling: A building where a minimum of 50% of residential units measure no greater than 500 square feet in gross floor area. Buildings containing Micro Units may have flexible common areas for living and/or working.

b. Age Restricted Dwelling: A building where all residents are 62 years of age or older. Such units shall be subject to an age restriction described in a deed, deed rider, restrictive covenant, or other document in a form reasonably acceptable to Town Counsel that shall be recorded at the Registry of Deeds or the Land Court. Age and occupancy restrictions shall not preclude reasonable, time-limited guest visitation rights or accommodation for caretakers for the primary resident. The age and occupancy restrictions shall be enforceable solely against the violating unit and not the development as a whole, by the owner of one or more dwelling units or by the Town of Brookline. In the event of a violation, and at the request of the Town, the owner of the unit shall comply with the age and occupancy restrictions.

2)3) All applications for new structures, outdoor uses, and exterior alterations in the Emerald Island Special District which exceed a floor area ratio of 1.0, a height greater than 40' and/or seek alternative parking and loading zone requirements shall be permitted only on lots greater than 13,600 square feet in contiguous area and only for the uses described in **Section 5.06.4.j.3** **Section 5.06.4.j.4**, shall be subject to Site Plan Review by the Planning Board as described in **Section 5.06.4.j.4** **Section 5.06.4.j.5**, shall be subject to the requirements of **Section 5.09**, Design Review, shall obtain a special permit per **Section 9.03**, and shall meet the following requirements:

k. Setbacks and Sidewalk Widths:

i. All buildings shall be setback 10 feet from the mid-district drainage easement as shown in Figure 5.06.4.j.1 below.

ii. All buildings shall be setback 45 feet from the Point of Intersecting Tangents of Brookline Avenue and River Road as shown in Figure 5.06.4.j.2 below.

iii. Notwithstanding **Section 5.01** and other than as provided in **Sections 5.06.4.j.2a.i** **5.06.4.j.3.a.i** and **5.06.4.j.2a.ii** **5.06.4.j.3.a.ii**, there shall be no additional setback requirements except as is necessary to achieve the required sidewalk widths for the district. For the purposes of the EISD only, sidewalk shall be defined as the area between the building facade and the face of the curb. The required sidewalk width shall be measured from the ground level of the proposed building facade to the face of the curb at the time of special permit application. All sidewalks shall maintain a minimum 5 foot wide walkway clear from all obstructions, including, but not

limited to tree pits, structural columns and street furniture. The minimum sidewalk width along Brookline Avenue and River Road shall be no less than 12 feet. The minimum sidewalk width along Washington Street shall be no less than 10 feet.

- iv. Where it can be demonstrated that achieving the required sidewalk width would be infeasible in limited areas, the Board of Appeals may by special permit reduce the required width of the affected areas to no less than 8 feet on Washington Street and River Road. No relief may be granted for a reduction in sidewalk width along Brookline Avenue. Applicants for a special permit to reduce the width of a sidewalk shall provide written and graphic documentation to the Planning Board illustrating why the required width is not attainable in the affected area. The Planning Board may in an affirmative and written determination make a recommendation to the Board of Appeals to reduce the width of the sidewalk in limited areas. Where relief is granted, applicants shall provide counterbalancing amenities in the form of wider sidewalks and/or landscaping on-site or in the immediate area adjacent to their site, subject to the review and approval of the Planning Board.

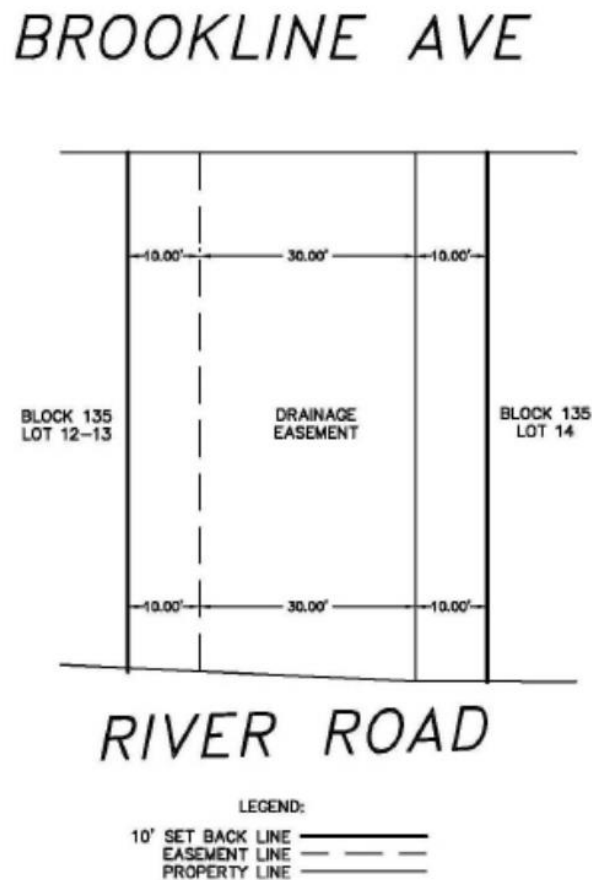


Figure 5.06.4.j.1 Setbacks from Mid-District Drainage Easement

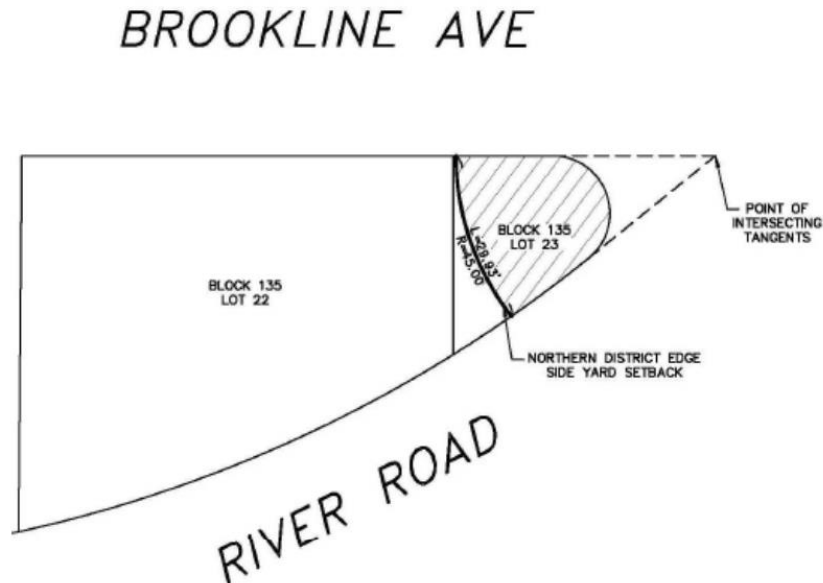


Figure 5.06.4.j.2 Northern District Edge Sideyard Setback

- l. The minimum finished floor to floor height for all ground floor levels shall be no less than 15 feet.
- m. No permanent on-site parking spaces shall be located on the ground level in the Special District.
- n. All new buildings and renovations to existing buildings shall be LEED Silver Certifiable or higher. Applicants shall provide evidence to the satisfaction of the Building Commissioner and Director of Planning and Community Development that all new construction and renovations of existing buildings are LEED Certifiable Silver or a higher rating via the provision of a LEED scoring sheet. The construction or renovation of such buildings consistent with these plans shall be confirmed prior to the issuance of a Certificate of Occupancy.
- o. Street trees shall be provided at regular intervals approximately every 25 feet along the sidewalks of Brookline Avenue, Washington Street and River Road. The size, location and species of all trees at the time of planting and the final design of all landscaping in the public way shall be approved by the Director of Parks and Open Space or his/her designee. In circumstances where trees cannot be provided as stipulated above as determined by the Director of Parks and Open Space or his/her designee, the applicant shall provide an equivalent amount of trees and/or landscaping at appropriate locations on the site or make a financial contribution to the Town in an equivalent dollar amount for similar improvements in adjacent parks and public spaces.
- p. The applicant shall devote no less than 1% of the hard construction cost of constructing its project, (including any building, site work, above ground or underground structures, but exclusive of tenant fit-up) to making off-

site, streetscape and parks improvements within 500 feet of the Special District boundaries. In addition to review by the Planning Board, a plan of the proposed off-site improvements shall be submitted for the review and approval of the Director of Transportation and the Director of Parks and Open Space or their designees. Alternatively, with the approval of the Director of Transportation and the Director of Parks and Open Space, the applicant may make a financial contribution to the Town in an equivalent dollar amount to be used by the Town for such purposes.

- q. Public seating and pedestrian-scale lighting shall be provided at regular intervals. The location, number and design of all seating and lighting in the public way shall be approved by the Director of Parks and Open Space or his/her designee.
- r. Notwithstanding the provisions of **Sections 6.06.6 and 6.07**, the number and size of required loading zones may be reduced in accordance with Site Plan Review as noted in **Section 5.06.4.j.4** **Section 5.06.4.j.5** below.
- s. A building shall not have more than 30% of its frontage along a street devoted to residential use including associated lobby use.
- t. Any proposed building shall be permitted to have more than one principal use. For example, a restaurant or retail business may be located in the same building as a permitted residential, or office, or hotel use without being considered an accessory use.

3)4) Exceptions to Maximum FAR and Maximum Height

- c. Additional height may be granted by special permit up to 85 feet for buildings primarily containing Micro Unit Dwellings, Age Restricted Dwellings or ~~only~~ the following uses: 6B (Dwelling, Live/Work Space); ~~6C (Dwelling, Age Restricted); 6D (Dwelling, Micro Unit)~~ 8 (Hotel); 8A (Limited Service Hotel); 20 (Medical Office); 21 (Professional Office); 29 (Store less than 5,000 SF), 30 (Eating Place less than 5,000 SF); 33 (Stores not exceeding 10,000 SF); 33a (Stores over 10,000 SF); 34 (Place for the sale and consumption of food and beverages exceeding 5,000 SF); 66 (Accessory Laboratory), only for buildings located a minimum of 189.12 feet from the intersection of Washington Street and Brookline Avenue, provided that the footprint of any building mass above a height of 65 feet covers no more than 55% of the lot area. Buildings may also contain Principal Uses 18A (Small Group Health/Fitness), 20a (Licensed Veterinarian), and 32 (Service Business) provided that such uses occupy no more than 25% of the building. The required 189.12 foot distance from the intersection of Washington Street and Brookline Avenue shall be measured from the Point of Intersecting Tangents as show in Figure 5.06.4.j.3 below.
- d. Additional height of up to 110 feet may be granted by special permit for buildings containing only the following uses: 8 (Hotel) and 8A (Limited Service Hotel) and only for buildings with frontage on Washington Street provided that the footprint of any building mass covers no more of the lot area than is specified in Table 5.06.4.j.1 and as depicted in Figure 5.06.4.j.4 below. Where an applicant can demonstrate that

additional lot coverage for any building mass above 35 feet would result in an improved building design, the Board of Appeals may by special permit grant an increase in the maximum percentage of lot coverage as shown in Table 5.06.4.j.1 below. Applicants for a special permit to increase the maximum percentage of lot coverage shall provide written and graphic documentation to the Planning Board and Design Advisory Team illustrating how the building design has improved. The Planning Board may in an affirmative and written determination make a recommendation to the Board of Appeals to increase the maximum percentage of lot coverage as shown in Table 5.06.4.j.1 below. The Design Advisory Team shall provide a similar affirmative written recommendation.

Table 5.06.4.j.1 Maximum % Lot Area Coverage by Building Height

Building Mass Heights	Maximum % Lot Area Coverage	Maximum % Lot Area Coverage By Special Permit with Planning Board Recommendation
0 up to 15'	80%	N/A
15' up to 35'	92%	N/A
35' up to 50'	80%	85%
50' up to 75'	75%	80%
75' up to 110'	50%	55%

4)5) Site Plan Review

b. All applications for new structures shall be subject to site plan review by the Planning Board to: ensure that there is adequate provision of access for fire and service equipment; ensure adequate provision for utilities and storm water storage and drainage; ensure adequate provision of loading zones; ensure adequate provision of parking; minimize impacts on wetland resource areas; minimize storm water flow from the site; minimize soil erosion; minimize the threat of air and water pollution; minimize groundwater contamination from on-site disposal of hazardous substances; maximize pedestrian and vehicle safety; screen parking, storage and outdoor service areas through landscaping or fencing; minimize headlight and other light intrusion; ensure compliance with the Brookline Zoning By-Laws; maximize property enhancement with sufficient landscaping, lighting, street furniture and other site amenities; minimize impacts on adjacent property associated with hours of operation, deliveries, noise, rubbish removal and storage. All plans and maps submitted for site plan review shall be prepared, stamped, and signed by a Professional Engineer licensed to practice in Massachusetts. Pursuant to the site plan review process, applicants shall provide to the Planning Board and the Director of Engineering a site plan showing:

- i. Property lines and physical features, including roads, driveways, loading areas and trash storage for the project site;
- ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting and exterior lighting.

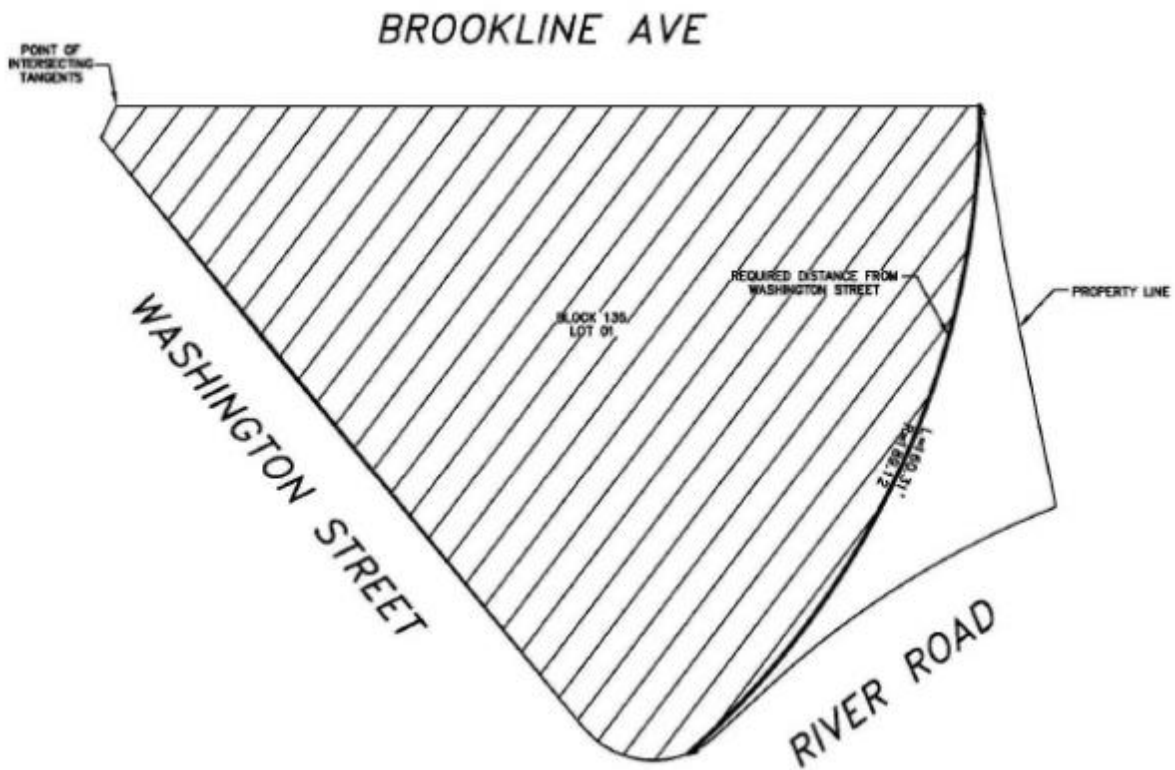


FIGURE 5.06.4.j.3 Required Distance from Washington Street

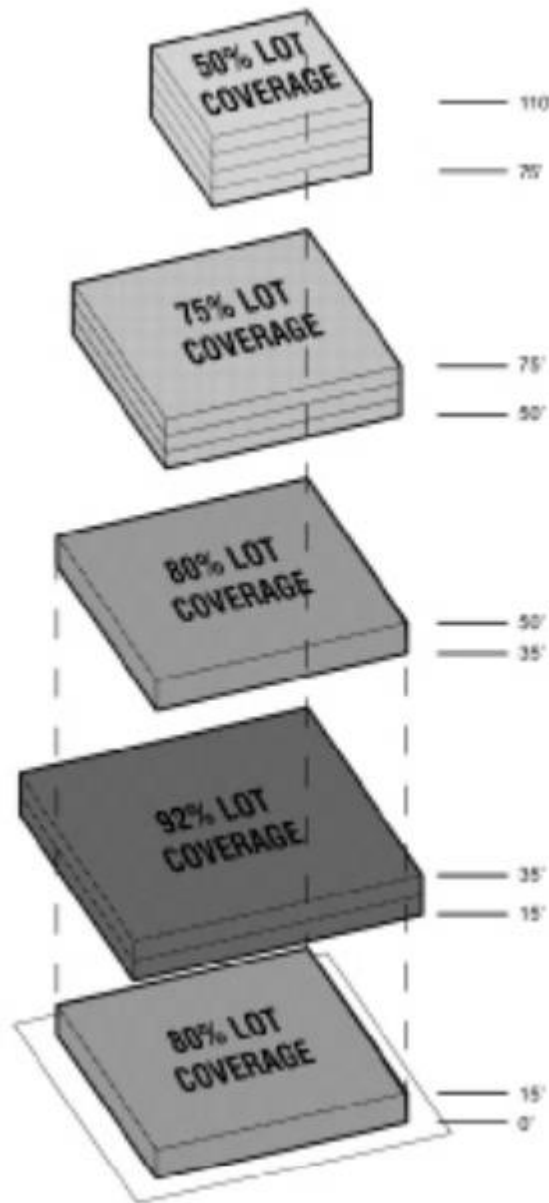


FIGURE 5.06.4.j.4 Maximum % Lot Coverage by Building Height

5)6) Parking and Vehicular Requirements:

- d. Notwithstanding **Section 6.02**, there shall be no minimum parking requirements for the following uses and such uses shall have the maximum parking limits noted in Table 5.06.4.j.2 below.
- e. Notwithstanding the above, where it can be demonstrated that additional parking is needed, the Board of Appeals may by special permit increase the maximum parking ratio by no more than 20%. Applicants for a special permit to increase the maximum parking ratio shall provide written documentation to the Planning Board demonstrating the need for additional parking. The Planning Board may in an affirmative and written

determination make a recommendation to the Board of Appeals to increase the maximum parking ratio by no more than 20%.

f. Notwithstanding the above, dedicated spaces for Car Sharing

Organizations (CSO) may be provided without regard to such maximum parking limits. If such dedicated parking spaces are not leased by any CSO they shall be dedicated to bicycle parking and appropriate bicycle parking hardware shall be provided.

Table 5.06.4.j.2 - Maximum Parking Limits

USE	MAXIMUM PARKING
Principal Use 6B (Dwelling, age-restricted) <u>Age Restricted Dwelling</u>	1.25 per unit
Principal Use 6CB (Live/Work space)	0.50 per unit
Principal Use 6D (Dwelling, Micro Unit) <u>Micro Unit Dwelling</u>	0.50 per unit
Principal Use 8 (Hotel) and 8a (Limited Service Hotel)	0.40 per room
Principal Uses:	
18A (Small group health/fitness); 20 (medical office); 20a (Licensed veterinarian); 21 (professional office); 29 (store less than 5,000K SF); 30 (Eating places less than 5,000K SF); 32 (Service use business); 33 (Stores not exceeding 10,000K SF); 33a (Stores over 10,000K SF); 34 (Place for sale and consumption of food not exceeding 5,000K SF); 66A (Accessory Laboratory)	1.50 per 1,000 SF

~~6~~7) Design Standards:

c. Building facades parallel to or within 45 degrees of parallel to any property line shall be designed and constructed with equal care and quality. Visual articulation shall be achieved for each facade by (a) employing variations in materials and/or ensuring that no portion of any such facade is coplanar or unbroken for more than 3,500 square feet without a change in depth of 2 feet or more, or (b) utilizing alternative methods of vertical or horizontal articulation, or (c) utilizing other design elements that, in the affirmative and written determination of the Design Advisory Team provide equivalent or better visual relief with respect to building massing, for the reasons expressed in such written determination. The Planning Board and the Board of Appeals shall provide a similar written determination and reasons with respect to facade design. During their review of all proposed building designs, both the Design Advisory Team and Planning Board shall consult the Emerald Island Special District Design Guidelines developed by the River Road Study Committee for guidance on general exterior massing, scale and design.

d. In order to minimize visual and audible impacts, all rooftop mechanical equipment shall be insulated and screened to the greatest extent possible

from all public ways via substantial screening materials and/or shall be located in the interior of the building. Additionally, all rooftop mechanical equipment shall be located such that all shadow impacts are minimized.

Approved: Aye: 209 No: 10 Abstained: 9

[Assistant Moderator Gadsby Presiding]

ARTICLE 22

Amend Article 3.21 of the Town's General Bylaws to require the posting of agenda packets on the Town's website

Submitted by: Mike Toffel, TMM8 and Neil Gordon, TMM1

Motioned and duly seconded

Presented by Mike Toffel

Speakers: Mike Toffel (P8), Dennis Doughty (P3/AC), John VanScoyoc (SB/AL), Neil Gordon (P1/AC), David Travvett (Pedastrian Advisory Committee), Amanda Zimmerman (P7)

VOTED: That the Town adopt the following amendment of the General Bylaws:
(language to be stricken appearing in strikeout, language to be added appearing in underline):

ARTICLE 3.21

READILY ACCESSIBLE ELECTRONIC MEETING NOTICES, AGENDAS, INFORMATION, AND RECORDS

Section 3.21.1 Purpose and Applicability

This by-law applies to all the meetings of all Town of Brookline governmental bodies public bodies subject to the Open Meeting Law, now G.L. c. ~~39, §§23A-30A, §§18-25 et seq.~~ (hereinafter, respectively, "public meetings" and "OML"), and is intended ~~(a) to take advantage of the internet and its increasing use; (b) to better implement the spirit of the OML; and (c) to the extent reasonably practical,~~ to improve opportunities for broader and more meaningful ~~citizen~~ participation by Residents and other interested parties in the business of Town ~~governmental public~~ bodies.

Section 3.21.2 Electronic Notification List(s) & Calendar

The Information Technology Department ("ITD") shall maintain one or more broadly available list(s) for the purpose of providing electronic notifications (such as by email) to Town Meeting Members and other Town residents who request to be included, prominently promoted on the

Town website's Homepage, along with a link to a readily available and current Calendar of upcoming meetings.

Section 3.21.3 Meeting Notices, ~~and~~ Agendas, and Information

(a) Each meeting "notice" required by the OML shall not only be "posted" ~~under~~ in accordance with the OML at least forty-eight hours before the meeting but, additionally, shall be posted in electronic format as soon as is practicable on the Town website Calendar after said meeting has been scheduled. ~~To the extent possible, each posting~~ Each such notice shall include (i) an agenda that is reasonably descriptive of the intended business of the meeting, subject to later revisions as needed in compliance with the OML, ~~and~~ (ii) the name of a contact person along with contact information for further inquiries, for forwarding messages to the relevant ~~governmental~~ public body, for obtaining background information to the extent readily available, and for obtaining contact information (or a website link containing such information) for all of members of the ~~governmental~~ public body, and (iii) webpage link(s) on the meeting agenda to such documents that the public body chair and/or their designee makes available to public body members in advance of the meeting (hereafter called the "Agenda Packet").

All documents made available to public body members in advance of the meeting shall at the same time be made available to the public.

Additional items made available to public body members during and subsequent to the meeting are also part of the Agenda Packet, and shall forthwith and similarly be made available to the public as soon as practicable, and no later than forty-eight hours after the meeting. Notwithstanding anything herein to the contrary, no documents need be made available under this article if such documents are exempt from disclosure under applicable law.

(b) With the assistance and direction of the Town Clerk and ITD, the information specified above shall be disseminated in a timely manner to members of the public who join the aforementioned notification list(s).

(c) Each public body chair and/or their designee shall use all best efforts to post the Agenda Packet (and any and all updates thereto) sufficiently in advance of the meeting to allow the public body members and the public to read and comprehend the materials in the Agenda Packet prior to the meeting.

Section 3.21.4 Records

Records of meetings of all Town ~~governmental~~ public bodies shall be reasonably descriptive of the business conducted, ~~– and shall include a summary of discussions, in addition to indicating actions taken and other requirements of the OML, and shall include link(s) to the Agenda Packet and to any electronic recording of the meeting, and~~ shall be accessible electronically from the Town website as soon as is practicable following the meeting at issue.

Section 3.21.5 Enforcement

As to mandates of this by-law that exceed those of state laws, including the OML, all officials, boards and committees responsible for appointing members of committees subject to this by-law shall ~~periodically~~ notify their appointees in writing of the requirements of this by-law. Such notification shall be provided no later than when appointees and chairs are sworn in by the Town Clerk. No additional enforcement powers are hereby conferred upon the ~~Norfolk County District~~ Attorney General beyond the responsibility of such office with respect to state law, including the OML, nor shall actions taken at any meeting be held invalid due to failure to comply with any requirements of this bylaw that exceed those of state laws, including the OML.

~~Section 3.21.6 Effective Date~~

~~The requirements of this by-law shall become effective on July 01, 2008.~~

The revisions to Article 3.21 passed by Town Meeting in May 2021 shall be implemented by November 30, 2021 for meetings of the Select Board, Advisory Committee, Transportation Board, Planning Board, Preservation Commission, Zoning Board of Appeal, and the School Committee-
and for meetings of all public bodies by February 1, 2022.

Approved: Aye: 216 No: 3 Abstained: 3

[Moderator Poverman presiding]

ARTICLE 24

Amend Article 3.12 of the Town's General Bylaws to establish a Sustainability Division within the Department of Planning and Community Development.

Submitted by: Select Board

Motioned and duly seconded

Presented by: Dennis Doughty

Speakers: Dennis Doughty (P3/AC), Heather Hamilton (SB/AL), Carol Hillman (P1),
Alison Steinfeld (Planning Director)

VOTED: The Town will amend Article 3.12 of the General Bylaws, Department of Planning and Community Development, as follows (language to be stricken appearing in strikeout, language to be added appearing in underline):

ARTICLE 3.12 DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

SECTION 3.12.1 ESTABLISHMENT

The Department of Planning & Community Development, hereinafter referred to as the Department, is hereby established. The Department is responsible for the town's planning, development and redevelopment programs and duties, including, without limiting the foregoing: zoning under G.L. c. 40A; subdivision control and planning, under G.L. c. 41, Sections 81A to 81GG, inclusive; all grants & aid functions; the town's housing programs; the town's preservation programs authorized by and implemented under G.L.c. 40C, by the Preservation Commission, authorized by the Historic Districts By-Law and the Demolition By-Law; and the town's economic development and sustainability programs. The Department shall be initially organized and this By-Law implemented on July 1, 1999.

SECTION 3.12.2 PURPOSE

It is the intent and purpose of this By-Law to consolidate all planning and development programs and duties, all grants and aid functions, all housing programs, all preservation and demolition regulations and requirements and all economic development and sustainability functions and programs into a single department. The consolidation is designed to attain efficiencies and economies of scale, to reduce or eliminate duplication and overlapping of services, responsibilities and functions, and to improve communication and coordination for planning and development functions between and among the various offices and agencies of the town. It is also the intent of this By-Law to provide expanded planning and community development programs and services to the residents, the business community, the non-profit and the other institutions of the town.

SECTION 3.12.3 DIRECTOR OF PLANNING & COMMUNITY DEVELOPMENT

(A) Appointment & Term of Office. There shall be a Director of Planning and Community Development, hereinafter referred to as the "Director", appointed by the Select Board in accordance with the provisions in Chapter 270 of the Acts of 1985. The appointment shall be made annually for a term of one year, commencing July 1 of each year and continuing until the appointment and qualification of a successor.

(B) Qualifications. The Director shall be a person especially fitted by education, training and experience to perform the duties and exercise the powers of the office.

(C) Powers & Duties. The Director shall be responsible for the effective management, administration and coordination of all operations within the Department, for all of the fiscal and financial affairs of the Department and the management, administration and control of all personnel assigned to the Department. The Director shall make recommendations to the Town Administrator concerning the appointment and removal of Assistant Directors by the Select Board. The Select Board may establish and, from time to time, change the number of Assistant Directors. Without limiting the foregoing, the initial Department organization shall include an Assistant Director of Planning and an Assistant Director for Housing. An Assistant Director for Economic Development and Assistant Director for Sustainability Planning shall be added when requested by the Town Administrator and authorized by the Select Board. The responsibility for providing administrative and professional assistance to the Preservation Commission, under Section 3.12.11, and the implementation and enforcement of the Historic Districts and Demolition By-Laws shall be added to and become part of duties and responsibilities of the Division of Planning when requested by the Town Administrator and authorized by the Select Board. The Director shall appoint and may remove all other personnel within the Department. The Select Board may appoint the Director to serve as the head of a division, as defined in

Section 3.12.4. In addition to supervising and directing the effective functioning of the Divisions, and without limiting the generality of the foregoing, the Director shall have the following specific powers and duties:

1. To direct, assign and reassign all personnel within the Department, including reassigning personnel between Divisions.
2. To be responsible for the efficient coordination and implementation of the town's economic development, housing, open space, planning and preservation programs, and the administration and implementation of the town's demolition, grants and aid and historic districts decisions and policies.
3. To advise the Town Administrator and Select Board on all matters that are within the scope of the Department's activities and functions.
4. To be responsible for the preparation of the Department's annual budget request and town report, for all expenditures and receipts by the Department and for the administration of the town's personnel rules and orders within the Department.
5. To provide administrative and professional assistance to the Economic Development Advisory Board.
6. To provide administrative and professional assistance to the Housing Advisory Board.
7. To provide administrative and professional assistance to the Planning Board.
8. To provide administrative and professional assistance to the Preservation Commission.
9. To provide administrative and professional assistance to the Board of Appeals.
10. To provide the Town with and from time to time, amend Comprehensive Plans for land use, public and private transportation and parking, open space, recreation, urban renewal, telecommunications and utility services, economic development, housing, historic preservation and also for the future development and preservation of town resources consistent with its physical, social and economic requirements and the health, safety and welfare of the public.
11. To coordinate the town's planning and development functions with other local, regional and state plans and programs.
12. To supervise the work of consultants used to assist the Department.
13. To review and amend, when appropriate, rules and regulations and procedures relevant to the proper operation of the Department and the implementation of Comprehensive Plans.
14. To develop action standards, notice and hearing guidelines and decision filing procedures to ensure that notice, hearing, and filing requirements for the Department, the Divisions and the boards and commissions that they service are satisfied.
15. To delegate the implementation of any one or more of the powers and duties assigned to the Department to an appropriate Division or Assistant Director.
16. To oversee Grants & Aid functions, including Federal CDBG and HUD programs.
17. To assist in the preparation of the annual capital improvements plan which is required under Chapter 270 of the Acts of 1985 and G.L.c. 41.
18. To report to the Town Administrator, on a regular basis, the current objectives and programs of the Department and the activities of the Department with regard to those objectives and programs.
19. To supervise and evaluate all Assistant Directors in the Department.
20. To provide planning and community development services and programs to the residents, the business community, the non-profit and the other institutions of the town.

21. To facilitate and maximize meaningful input to Town boards and officials to the extent reasonably practical from Brookline Residents and other interested parties, including civic associations and neighborhood organizations.

22. To perform such other duties as may be assigned to the Department by the Select Board or Town Administrator.

SECTION 3.12.4 DIVISIONS WITHIN THE DEPARTMENT

The Department shall consist of the following divisions: the Division of Planning, the Division of Housing, ~~and~~ the Division of Economic Development and Long-Term Planning, and the Division of Sustainability Planning. Each Division shall be under the general management and control of an Assistant Director. The Assistant Directors shall be subject to the authority and direction of the Director. They shall render reports to the Director on a regular basis, including in such reports a summary of current activities, a list of both current and long-range issues being reviewed or worked on by the Division and a summary of the objectives and programs being implemented by the Division. Each Division shall perform the duties prescribed by law, the town's By-Laws and assigned to it by the Director.

SECTION 3.12.5 DIVISION OF PLANNING

The Division of Planning shall advise and assist in the administration and updating of municipal planning and zoning, in timely and continuing consultation with the public and private agencies and committees that have jurisdiction over the use or regulation of real property within the town. Municipal planning shall include the creation, the review, the revision and the implementation of Comprehensive Plans for open space, land use, for public and private transportation and parking, for telecommunications and utility services, for recreation, for the utilization of town resources, particularly with respect to housing, business and commercial development and redevelopment, and for the careful study, and, when necessary, the preparation of plans of the resources, possibilities and needs of the town. The Division shall assist with the maintenance and annual update of the Capital Improvement Plan in accordance with the requirements of the Town Administrator, Chapter 270 of the Acts of 1985, and G.L.c. 41. The Division shall assist the Planning Board with implementation of the Subdivision Control Law and shall provide administrative and professional assistance to the Planning Board.

The Assistant Director of the Division of Planning shall serve as the Secretary of the Planning Board and shall assist the Planning Board with the performance and discharge of the following duties:

- a) Creation, review and amendment of Comprehensive Plans in accordance with G.L.c. 41, §81D.
- b) Review, amendment and implementation of subdivision regulations under G.L.c. 41, §81Q.
- c) Review and report on Urban Renewal Plans under G.L.c. 121A.
- d) Review and report on matters pending before the Board of Appeals.
- e) Review and report on matters specified in or when required under the Zoning By- Law.
- f) Conducting of hearings and the filing of reports, with recommendations, concerning proposed amendments to the Zoning By-Law.
- g) Coordinate and facilitate open space planning and preservation within the town and among town officers and committees.

SECTION 3.12.6 PLANNING BOARD

The Select Board shall appoint seven residents to serve on the Planning Board for five year staggered terms. At least one of the appointees must be qualified for such appointment by virtue or relevant and significant experience or training in the field of environmental or urban planning.

The Planning Board is established under G.L.c. 41, §81A, and shall perform and discharge all of the statutory powers and duties required by law, including those set forth in The Zoning Act, G.L.c. 40A, in the Subdivision Control Act and other relevant sections in G.L.c. 41, Sections 81A to 81GG, inclusive, in Chapter 270 of the Acts of 1985 and in G.L.c. 41.

SECTION 3.12.7 DIVISION OF HOUSING

The Division of Housing shall initiate modifications and amendments of housing policies for the town, subject to the approval thereof by the Housing Advisory Board (HAB), the Director and the Select Board, and shall assist in the implementation of such policies. In housing matters, the Division shall maintain an effective and productive relationship among policy, programs and development, including affordable housing development under the Town's inclusionary housing provisions in the Zoning By-Law. The Division shall provide administrative and professional assistance to HAB.

SECTION 3.12.8 HOUSING ADVISORY BOARD

The Housing Advisory Board, whose powers and duties are more fully set forth in Article 3.13, shall review the town's housing policies and all modifications and amendments thereto proposed by the Division of Housing and shall make its recommendations and reports to the Director, the Town Administrator and the Select Board. HAB may initiate recommendations for amending or modifying the town's housing policies and may make recommendations for changes in the town's housing strategy.

SECTION 3.12.9 DIVISION OF ECONOMIC DEVELOPMENT AND LONGTERM PLANNING

The Division of Economic Development and Long-term Planning shall, from time to time, recommend modifications and amendments to the economic development, redevelopment, renewal and long-term planning policies of the town. The Division shall initiate policies and programs for the promotion and enhancement of existing business and commercial areas, subject to the approval thereof by the Director, the Economic Development Advisory Board (EDAB) and the Select Board. The Division shall assist in the implementation of such policies and programs. The Division shall maintain a current Economic Development and Long-term Planning portfolio and a list of all completed projects, all projects in process and all projects awaiting implementation. The Division shall provide administrative and professional assistance to EDAB.

SECTION 3.12.10 ECONOMIC DEVELOPMENT ADVISORY BOARD

The Select Board shall appoint twelve residents to serve on the Economic Development Advisory Board (EDAB) for three year staggered terms. The present members of EDAB shall continue to serve for the remaining terms of their appointments. EDAB shall review the economic development, redevelopment and renewal policies of the town, and all modifications and amendments thereto proposed by the Division, and shall make its recommendations and

reports to the Director, the Town Administrator and the Select Board. EDAB may also initiate recommendations for amending or modifying the town's development, redevelopment and renewal policies and may make recommendations for changes in the town's economic development strategy.

SECTION 3.12.11 PRESERVATION

The Department of Planning and Community Development shall provide the Preservation Commission, established under Article 5.6.4 in the By-Laws, with administrative and professional assistance with regard to the performance and discharge of the following duties:

(A) Promoting the educational, cultural, physical, economic and general welfare of the town through the preservation and protection of its historical assets.

(B) Implementing and enforcing the Historic Districts and Demolition By- Laws.

SECTION 3.12.12 DIVISION OF SUSTAINABILITY PLANNING

The Division of Sustainability shall recommend policies and modifications to such policies to the Select Board in order to promote sustainability and address climate change. The Division shall develop, maintain and update as appropriate a strategic plan to identify mechanisms and programs to implement said policies and to establish priorities for future action. The Division shall work with all divisions of the Planning Department and other municipal departments to further the Town's sustainability goals, subject to approval thereof by the Director and the Select Board.

Or act on anything relative thereto.

Approved:

Aye: 217

No: 1

Abstained: 2

ARTICLES 25 and 26 **[Debated together]**

Submitted by: Kathleen Scanlon, Lisa Cunningham, Scott Englander, Jesse Gray, Jonathan Klein, Werner Lohe, Paul Saner, Michael Zoorob

Presented by Lisa Cunningham

Speakers: Dennis Doughty (P3/AC), Heather Hamilton (SB/AL), Carol Hillman (P1), Alison Steinfeld (Planning Director), Lisa Cunningham (P15), Carlos Ridruejo (P14/AC), Jesse Gray (P10), Heather Hamilton (SB/AL), Werner Lohe (P13), Steve Heikin (Planning Board), Kathleen Scanlon (P3), David Pollak (P11/AC), Tommy Vitolo (State Representative/AL), Paul Saner (P13), Scott Englander (P6), Martin Yaseen (P2), Jesse Gray (P10)

MOTION to terminate debate

Approved: Aye: 197

No: 8

Abstained: 5

ARTICLE 25

Amend Sections 5.06 and 2.06 of the Town's Zoning By-law to require new buildings in the Emerald Island Special District to be Fossil Fuel Free (FFF)

Motioned and duly seconded

VOTED: That the Town adopt the following new zoning Bylaw:

1. Amend Section 5.06.4 (j) (2) (d) as follows: (*Changes in bold and underlined*)

§5.06 – SPECIAL DISTRICT REGULATIONS

5.06.4. j. *Emerald Island Special District*

2) d. All new buildings and renovations to existing buildings shall be LEED Silver Certifiable or higher. **All new buildings shall also be free of on-site fossil fuel infrastructure.**

As used in this By-law, the following terms shall have the following meanings:

“New Building” is defined as a building not in existence on the date of an application for a special permit that is subject to this By-law.

“On-Site Fossil Fuel Infrastructure” is defined as fossil fuel piping that is in a building, in connection with a building, or otherwise within the property lines of premises, including piping that extends from a supply source; provided, however, that “On-Site Fossil Fuel Infrastructure” shall not include:

- a. **Fuel gas piping connecting a supply source to a meter or to the meter itself; or**
- b. **Fossil fuel piping related to backup electrical generators, cooking appliances or portable propane appliances for outdoor cooking and heating.**
- c. **The requirements of this By-law shall not apply to the piping, in buildings with floor areas of at least 10,000 square feet, required to produce potable or domestic hot water from centralized hot water systems if the Engineer of Record certifies that no commercially available electric hot water heater can meet the building’s hot water demand for less than 150% of installation or operational costs, compared to a conventional fossil-fuel hot water system.**
- d. **The requirements of this By-law shall not apply to:**

1. Research laboratories for scientific or medical research, and

2. Health care uses that require licensure or certification as a health care facility by the Massachusetts Department of Public Health.

Applicants shall provide evidence to the satisfaction of the Building Commissioner and Director of Planning and Community Development that all new construction and renovations of existing buildings are LEED Certifiable Silver or a higher rating via the provision of a LEED scoring sheet. The construction or renovation of such buildings consistent with these plans shall be confirmed prior to the issuance of a Certificate of Occupancy. **A waiver from the regulations of §5.06.j (2d) may be approved by the Board of Appeals, in its special permit decision, upon a finding:**

1.) If supported by a detailed cost comparison provided by the applicant, that strict compliance with the requirements of Section 5.06.4j (2d) would be financially infeasible, including after utilizing available rebates and credits, or otherwise impractical to implement; or

2.) That strict compliance with the requirements of Section 5.06.4j (2d) would result in the loss of new affordable housing units eligible for inclusion in the Department of Housing and Community Development Chapter 40B Subsidized Housing Inventory.

In considering any waiver request, the Board of Appeals shall evaluate whether particular portions of a project are financially infeasible or impractical to implement, or would result in the loss of new affordable housing units, and the Board of Appeals shall issue waivers narrowly for those portions, where appropriate, rather than for an entire project.

Approved: Aye: 208 No: 3 Abstained: 2

ARTICLE 26

Amend the Town's Zoning Bylaws to incentivize Fossil Fuel Free (FFF) infrastructure in new construction and significant rehabilitation of buildings by special permit.

Motioned and duly seconded

VOTED: That the Town amend the Zoning By-Laws by adding a new Section 9.13 as follows:

Section 9.13: On-Site Fossil Fuel Infrastructure

1. Purpose

This section is adopted by the Town of Brookline, to protect the health and welfare of the inhabitants of the Town from air pollution, including greenhouse gas emissions that cause climate change and thereby threaten the Town and its inhabitants.

2. Definitions

As used in this section, the following terms shall have the following meanings:

“New Building” is defined as a building not in existence on the date of an application for a special permit that is subject to this section.

“On-Site Fossil Fuel Infrastructure” is defined as fossil fuel piping that is in a building, in connection with a building, or otherwise within the property lines of premises, including piping that extends from a supply source; provided, however, that “On-Site Fossil Fuel Infrastructure” shall not include:

- a. Fuel gas piping connecting a supply source to a meter or to the meter itself; or
- b. Fossil fuel piping related to backup electrical generators, cooking appliances or portable propane appliances for outdoor cooking and heating.

“Significant Rehabilitation” is defined as an alteration, requiring a building permit, to a building in existence on the date of an application for a special permit that is subject to this section, and that:

- a. For existing buildings regulated by the 9th Edition of the Massachusetts State Building Code 780 CMR 51.00, the Massachusetts Residential Code, includes the reconfiguration of space or building systems, in which the Work Area is more than 75% of the gross floor area as defined in the Zoning By-Law, prior to the project; or
- b. For existing buildings regulated by the 9th Edition of the Massachusetts State Building Code 780 CMR 34.00, the Massachusetts State Basic Commercial Code, includes the reconfiguration

of space and/or building systems, in which the Work Area is more than 50% of the gross floor area, as defined by the Massachusetts Building Code, prior to the project.

“Work Area” is defined as the aggregate area of those portions of a building affected by alterations for the reconfiguration of space or building systems, including new floor area added as a result of the alteration, as indicated in the drawings associated with a building permit application. Excluded from the calculation of Work Area are those portions of a building where only repairs, refinishing or incidental work occur or where work not initially intended by the applicant is specifically required by an inspector from the Building Department pursuant to the applicable building code.

3. Applicability

The requirements of this section shall apply to all special permit applications for New Buildings or Significant Rehabilitations proposed to be located in whole or in part within the Town or for uses to be located within such New Buildings or Significant Rehabilitations, as well as to applications for the continuation of New Buildings, Significant Rehabilitations or uses authorized by a special permit previously issued subject to this section, except as follows:

- a. The requirements of this section shall apply only to project proposals that
 1. Require a special permit granted pursuant to the requirements and procedures of sections 9.03, 9.04, 9.05, 9.08, or 9.10 for the proposed structure, alteration or use; and
 2. Include a New Building or Significant Rehabilitation as defined in this section.
- b. The requirements of this section shall not apply to any application for a special permit filed on or before the later of September 1, 2021 or the date of first issuance of Planning Board guidelines pursuant to paragraph 7 of this section.
- c. The requirements of this section shall not apply to the piping, in buildings with floor areas of at least 10,000 square feet, required to produce potable or domestic hot water from centralized hot water systems if the Engineer of Record certifies that no commercially available electric hot water heater can meet the building's hot water demand for less than 150% of installation or operational costs, compared to a conventional fossil-fuel hot water system.
- d. The requirements of this section shall not apply to the extension or modification of heating systems via HVAC system modification, or modification of radiator, steam, or hot water piping if fossil fuel piping is not installed.
- e. The requirements of this section shall not apply to any building being constructed subject to a Waldo-Durgin Overlay District Special Permit, as described in section 5.06, paragraph 4, subparagraph k, or a Fisher Hill Special Overlay District Special Permit, as described in Section 5.06, paragraph 4, subparagraph l.
- f. The requirements of this section shall not apply to:
 1. Research laboratories for scientific or medical research, and
 2. Health care uses that require licensure or certification as a health care facility by the Massachusetts Department of Public Health.
- g. The requirements of this section shall not apply to repairs or replacement of any existing portions of a fuel piping system deemed unsafe or dangerous by the Plumbing and Gas Fitting Inspector.
- h. The requirements of this section shall not apply to any application for a special permit that is, required by ~~made pursuant to~~ the Design Review provisions ~~requirements~~ of section 5.09, paragraph 2, provided that ~~if~~ no other special permit is otherwise required.

i. The requirements of this section shall not apply to any application for a special permit for the renovation, reconstruction, alteration or extension of a nonconforming single or two-family residence, where the only relief needed represents an increase or intensification of a nonconformity lawfully in existence at the time the applicable provision of the Zoning By-Law became effective.

4. Climate Responsive Conditions for Approval of Special Permits

Except as otherwise provided in this section, the Board of Appeals shall not approve any special permit application ~~made~~ pursuant to the requirements and procedures of sections 9.03, 9.04, 9.05, 9.08, or 9.10 unless the Board finds that:

- a. The proposal does not involve the installation of any new On-Site Fossil Fuel Infrastructure or the continuation of any On-Site Fossil Fuel Infrastructure installed pursuant to a special permit previously issued subject to this section; or
- b. The proposal involves the installation of On-Site Fossil Fuel Infrastructure or the continuation of any On-Site Fossil Fuel Infrastructure installed pursuant to a special permit previously issued subject to this section; provided, however, that either:
 1. Except as otherwise provided in paragraph 4, subparagraph b(2) of this section, the special permit shall be conditionally approved for a term not to exceed five years from the date of its first exercise or until January 1, 2030, whichever is later; or
 2. Where a special permit has previously been issued subject to paragraph 4, subparagraph b(1) of this section, it may, for good cause, be renewed, one or more times, for a term not to exceed one year; or
 3. The special permit shall be approved on the condition that it is personal to the applicant and is non-transferrable, including by the transfer of stock or other ownership interest in a business organization or trust, except in the case of an owner's primary residence to an immediate family member or to a trust for which the owner or an immediate family member is the primary beneficiary;

and provided further that, at the applicant's request, the Board of Appeals may modify the special permit to run with the land in perpetuity, upon a finding that the applicant has removed, disconnected or otherwise permanently disabled any On-Site Fossil Fuel Infrastructure that was subject to this section at the time the special permit was first granted.

5. Waivers

A waiver from the requirements of paragraph 4 of this section may be approved by the Board of Appeals, in its special permit decision, upon a finding:

- a. If supported by a detailed cost comparison provided by the applicant, that strict compliance with the requirements of paragraph 4 would be financially infeasible, including after utilizing available rebates and credits, or otherwise impractical to implement; or
- b. That strict compliance with the requirements of paragraph 4 would result in the loss of new affordable housing units eligible for inclusion in the Department of Housing and Community Development Chapter 40B Subsidized Housing Inventory.

No modification of a special permit, the rights under which have previously been exercised, shall grant a waiver from the requirements of this section. In considering any waiver request, the Board of Appeals shall evaluate whether particular portions of a project are financially infeasible or impractical to implement, or would result in the loss of new affordable housing units, and the

Board of Appeals shall issue waivers narrowly for those portions, where appropriate, rather than for an entire project.

2. Notices

For a special permit granted subject to paragraph 4, subparagraph b of this section, any notice that is required to be recorded pursuant to *M.G.L. c.40A, §11*, shall include a statement detailing the condition upon which the special permit was granted.

For all properties subject to a special permit conditioned on a time limitation pursuant to paragraph 4, subparagraph b(1) of this section, the Building Commissioner will provide notice to the owner of record of the expiration of said special permit and the requirement of compliance with this section. Such notice will be first provided not less than three (3) years prior to the expiration of such a special permit, and annually thereafter; provided, however, that the failure of the Building Commissioner to issue timely notices pursuant to this paragraph shall not be deemed to prevent the Building Commissioner from seeking to enforce the requirements of this section or otherwise to operate as a defense to any such enforcement action.

Approved Aye: 206 No: 6 Abstained: 4

MOTION to Adjourn, duly seconded.

Approved

Night 6: June 2, 2021

- Call to order: 7:00PM
- Meeting called to order by Moderator Poverman

[Recess at 7:01pm, Reconvene at 7:22pm.]

- Updated votes announced by the Moderator
- Point of Order: Gil Hoy (P13)

ARTICLE 27

Petition for a special act exempting the Brookline Housing Authority from certain bidding requirements for the construction and development of affordable housing at 32 Marion Street

Submitted by: Kathleen Scanlon, Michael Jacobs

Motioned and duly seconded

Presented by: Kathleen Scanlon

Speakers: Kathleen Scanlon (P3), Mike Jacobs (Housing Authority), Raul Fernandez (SB/AL), Pamela Lodish (P14/AC), Tommy Vitolo (State Representative/AL), Clint Richmond (P6), Kathleen Scanlon (P3), Dan Bennett (Building Department), Michael Alperin (Brookline Housing Authority), Harry Friedman (P12), Deborah Brown (P1), Linda Olsen Pehlke (P2)

VOTED: That the Town adopt the following:

That the Town authorize and empower the Select Board to file a petition with the General Court for special legislation as set forth below:

AN ACT RELATIVE TO BIDDING REQUIREMENTS FOR A CERTAIN AFFORDABLE HOUSING PROJECT IN THE TOWN OF BROOKLINE.

Provided that the General Court may reasonably vary the form and substance of this requested legislation which shall be within the scope of the general public objectives of this petition, be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Construction and development activity related to redevelopment by the Brookline Housing Authority or by a limited liability company or limited partnership controlled by the Brookline Housing Authority of the federally-funded Colonel Eugene B. Floyd Apartments located at 32 Marion Street, Assessor's Parcel ID 167-19-00, in the Town of Brookline, or any part thereof, shall not be subject to any general or special law related to the procurement and award of contracts for the planning, design, construction management, construction, reconstruction, installation, demolition, maintenance or repair of buildings by a public agency, but shall be subject to sections 26 to 27H, inclusive, of chapter 149 of the General Laws. A conveyance of the project, whether by leasehold or fee estate, to an urban redevelopment corporation organized pursuant to chapter 121A of the General Laws or to a nonprofit state and federally tax-exempt corporation organized for the purpose of or to a limited partnership or limited liability company whose primary purpose is revitalizing the project, shall be subject to chapter 30B of the General Laws to the extent that the project is conveyed to an entity that is not owned, controlled or managed by the Brookline Housing Authority on the date of the conveyance.

SECTION 2. This act shall take effect upon its passage.

Approved: Aye: 209

No: 2

Abstained: 7

ARTICLE 28

Petition for a special act authorizing the expenditure of a certain sum from the Town's Marijuana Mitigation Stabilization Fund for the purpose of advancing racial equity

Submitted by: Select Board

Motioned and duly seconded

Presented by: Raul Fernandez

Speakers: Raul Fernandez (SB/AL), Chi Chi Wu (P7/AC), Paula Friedman (P14),
Melissa Goff (Deputy Town Administrator), Linda Olsen Pehlke (P2), Deborah
Brown (P1), Mel Kleckner (Town Administrator), Kate Silbaugh (P1)

VOTED: That the Town will authorize the Select Board to petition the Legislature for legislation authorizing the expenditure of \$500,000 from the Town's Marijuana Mitigation Stabilization Fund (consisting of funds derived from Host Community Agreement mitigation fees from licensed cannabis establishments) for the purpose of supporting projects, programs and initiatives that advance racial equity and racial justice within the Brookline community; provided, that the Legislature may reasonably vary the form and substance of the requested legislation within the scope of the general public objectives of this petition:

AN ACT AUTHORIZING EXPENDITURE OF \$500,000 FROM TOWN OF BROOKLINE'S MARIJUANA MITIGATION STABILIZATION FUND FOR PURPOSE OF ADVANCING RACIAL EQUITY IN THE TOWN OF BROOKLINE

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Notwithstanding section 3 of chapter 94G of the General Laws, section 5B of chapter 40, section 53 of chapter 44 of the General Laws, or any other general or special law to the contrary, the Town of Brookline is authorized to spend \$500,000 from the Town's Marijuana Mitigation Stabilization Fund (consisting of funds derived from Host Community Agreement mitigation fees from licensed cannabis establishments) for the purpose of supporting projects, programs and initiatives that advance racial equity and racial justice within the Brookline community. Such monies shall be expended in conformity with Select Board regulations and/or such terms as the Select Board may specify.

SECTION 2. This act shall take effect upon its passage.

Approved: Aye: 207

No: 7

Abstained: 8

ARTICLES 29 and 30 **[Debated together]**

Submitted by: Planning & Community Development Department, Economic Development Division

Presented by: Alisa Jones

Speakers: Alisa Jonas (AC/P16), Raul Fernandez (SB/AL), David Gladstone (Resident), Jonathan Davis (P10), Dan Bennett (Building Commissioner), David Leschinsky (Resident), John Harris (P8), Eileen Berger (P15), Todd Kirrane (Transportation Administrator), Gil Hoy (P13), John Buchheit (Associate Town Counsel), Alison Steinfeld (Planning Director), Meredith Mooney (Economic Development Planner), Anita Johnson (P8), Erin Gallentine (Public Works Commissioner), Mark Levy (P7), Saralynn Allaire (P16)

MOTION to terminate debate

Approved: Aye: 182 No: 31 Abstained: 8

ARTICLE 29

Amend Article 8.10 of the Town's General Bylaws to permit the use of sidewalks and outdoor premises for year-round outdoor restaurant seating.

Motioned and duly seconded

VOTED: to amend the Brookline General By-Laws Section 8.10.8 – Use of Sidewalks and Outdoor Premises, of Article 8.10 – Food Vendors License (additions are underlined and deletions appear in stricken text), with 2 minor revisions: 1) adding the word “proper” before “notice” in the first line of Section 8.10.8 to emphasize that the type of notice provided to the public must be in accordance with the provisions for notice required of the Select Board, and (2) adding the word “its” before “designee” to correct a scrivener’s error (with revisions shown in bold underlined, below).

ARTICLE 8.10 FOOD VENDOR LICENSES

SECTION 8.10.8 USE OF SIDEWALKS AND OUTDOOR PREMISES

The Select Board may, upon written application by a licensed Food Vendor, after **proper** notice and hearing, grant, upon such terms and conditions as ~~they~~ **it** determines to be necessary and desirable, ~~that a~~ Licensed Food Vendor the right to use ~~the~~ **an adjacent** outdoor portion area as part of the licensed premises to accommodate outside seating for patrons. Such duly licensed outside seating areas may include and/or a portion of a town street or sidewalk area and/or a third party's property with acceptable proof of third-party consent. ~~that is contiguous to the licensed premises for outside seating for Patrons.~~ Prior to such a grant, the Select Board shall seek advisory reports from the ~~Planning Board~~ **Planning & Community Development Department**, Building Commissioner, Police Department, Fire Department, Health Department, and Commissioner of Public Works, ~~as the Select Board or its designee may determine.~~ **No such grant shall be for more than six months in any license year.** No such grant shall extend beyond the term of the license. Any right granted hereunder shall be subject to revocation if the exercise of the grant interferes with public safety and convenience.

Approved: Aye: 218 No: 0 Abstained: 4

ARTICLE 30

Amend the Town's Zoning Bylaws to authorize year-round outdoor restaurant seating

Motioned and duly seconded

VOTED: That the Town amend Article 4 sections 4.04, 4.07, and 6.02 as follows:

§4.04 – LIMITATION OF AREA OF ACCESSORY USES

1. No accessory use or uses within a building shall occupy more than a combined total of 25 per cent of the floor area of the principal building, other than required off- street parking.
2. No accessory use or uses not within a building shall occupy more than a combined total of 25 per cent of the unbuilt lot area, or of the required rear yard area, other than required off-street parking or outdoor seating for a licensed Food Vendor as defined in Article 8.10 of the Town's General By-Laws.
3. No accessory use shall occupy part of the required front or side yards, except offstreet parking as required in M-1.0, M-1.5, M-2.0, and M-2.5 Districts **and in business and industrial districts, and as provided in §§ 5.44, 5.53, 5.63, and 5.72.**

§4.07 – TABLE OF USE REGULATIONS

38C. Open-air use, other than commercial recreation facilities, seasonal outdoor seating for a licensed Food Vendor as defined in Article 8.10 of the Town's General By-Laws that does not exceed six months in each calendar year, and Uses 22 to 28, inclusive, Use 38C shall include including but not be limited to the sale of flowers, garden supplies, or agricultural produce.

ARTICLE VI

VEHICULAR SERVICE USES REQUIREMENTS

§6.02 – OFF-STREET PARKING SPACE REGULATIONS

3. Places of Public Assembly shall include Uses 9, 12 to 14 inclusive, 16, 30, and 34, as listed in

Article IV.

- a. Where Places of Public Assembly are provided with benches rather than fixed individual seats, each 1.5 linear feet of bench shall equal one seat.
- b. Where no fixed seats are used, each 20 square feet of public floor area shall equal one seat.
- c. Places of worship need not provide the requirements specified in this section.
- d. Bowling alleys shall provide two parking spaces for each alley.
- e. For recreational or social uses primarily designed for neighborhood or Town-wide activities and owned or operated by an agency of the Town, the Board of Appeals may by special permit modify the requirements of this section.
- f. For any place of public assembly that obtains a license for ~~seasonal~~ outdoor seating subject to **§8.10.8** of the Town's General Bylaw, the additional ~~seasonal~~ outdoor space shall be exempt from parking requirements.

Approved: Aye: 223 No: 0 Abstained: 4

ARTICLE 31

Petition for a special act pertaining to speed regulations on the Town's public ways

Submitted by: Transportation Board

Motioned and duly seconded

Presented by: Leonard Wholey

Speakers: Leonard Wholey (P11), Heather Hamilton (SB/AL), Tommy Vitolo (State Representative/AL), Janice Kahn (P15/AC), Regina Frawley (P16), Carol Hillman (P1), Todd Kirrane (Transportation Administrator)

VOTED: To authorize the Select Board to petition the Legislature to enact legislation authorizing the Town's Transportation Board to amend special speed regulations on Town public ways previously adopted pursuant to the authority of Mass. Gen. Laws ch. 90, § 18 and the implementing policies and procedures of the Massachusetts Department of Transportation, and replace them with the statutory speed regulations set forth in Mass. Gen. Laws ch. 90, §§ 17 and 17C, as applicable; provided, that the Legislature may reasonably vary the form and substance of the requested legislation within the scope of the general public objectives of this petition.

AN ACT AUTHORIZING THE TOWN OF BROOKLINE'S TRANSPORTATION BOARD TO REVOKE SPECIAL SPEED REGULATIONS PREVIOUSLY APPROVED IN COMPLIANCE WITH MASSACHUSETTS GENERAL LAW CHAPTER 90, SECTION 18 ON ANY PUBLIC WAYS UNDER TOWN JURISDICTION AND RETURN THE WAY TO THE STATUTORY SPEED LIMIT ESTABLISHED UNDER MASSACHUSETTS GENERAL LAW CHAPTER 90, SECTIONS 17 AND 17C

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Notwithstanding section 18 of chapter 90 of the General Laws, 1974 Mass. Acts ch. 317 as amended or any other general or special law to the contrary, the Transportation Board of the Town of Brookline may, after holding a public hearing, vote to revoke any special speed regulation for a public way under the Town's jurisdiction that was previously approved by the Massachusetts Department of Transportation and posted in accordance with law and Massachusetts Department of Transportation policy and procedure. Upon revocation, said public way shall be subject to the statutory speed limits established by section 17 of chapter 90 of the General Laws and section 17C of chapter 90 of the General Laws, as applicable.

SECTION 2. This act shall take effect upon its passage.

Approved: Aye: 214 No: 1 Abstained: 5

[Recess at 8:56pm, Reconvene at 9pm.]

ARTICLE 32

Amend the Town's General Bylaws to establish a Community Preservation Committee

Submitted by: Select Board

Motioned and duly seconded

Presented by: Amy Hummel

Speakers: Amy Hummel (P12/AC), Heather Hamilton (SB/AL), Roger Blood (Housing Advisory Board), Michael Jacobs (Housing Authority), Steve Heikin (Planning Board), Neil Wishinsky (P5), Mark Levy (P7), Amy Hummel (P12/AC), Linda Olson Pehlke (P2), Rebecca Mautner (P11), Clint Richmond (P6), Janice Kahn (P15), Martin Rosenthal (P9), Dave Gacioch (P13)

MOTION to terminate debate

Approved: Aye: 157 No: 47 Abstained: 7

VOTED: Select Board Supplemental Motion to Article 32

Approved: Aye: 127 No: 87 Abstained: 6

VOTED: To amend its General By-Laws by adding a new section (insert reference as appropriate) as follows: (AC amended language is underlined, SB amended language is bold and underlined deleted language is struck)

COMMUNITY PRESERVATION COMMITTEE

Section 1. Establishment and Membership

- a. There is hereby established a Community Preservation Committee consisting of nine (9) members. The membership shall be composed of one member of the Conservation Commission as designated by such Commission, one member of the Preservation Commission as designated by such Commission, one member of the Planning Board as designated by such Board, one member of the Park and Recreation Commission as designated by such Commission, one member of the Brookline Housing Authority as designated by such Commission authority, **one member of the Housing Advisory Board and three (3)** ~~four (4)~~ at-large members appointed by the Select Board. **The Select Board shall endeavor to appoint such at-large members to provide balance to the overall committee, so that the Town's overall priorities, considered in the context of the areas of preservation, housing, and open space, are as balanced as practicable.**
- b. At-large members shall be appointed to the following initial terms: One (1) for a one-year term, ~~two (2)~~ **one (1)** for a two-year terms, and one (1) for a three year term. All subsequent terms shall be for three years. All other members shall serve a term determined by their designating bodies not to exceed three years. All members, at-large

and otherwise, are eligible for reappointment. Should any appointing or designating authority fail to appoint a successor to a CPC member whose term is expiring, such member may continue to serve until the relevant authority names a successor.

- c. A vacancy of the committee shall be filled by the relevant appointing or designating authority.

Section 2. Duties and Responsibilities

- a. The Community Preservation Committee shall have all of the duties and powers set forth in G.L. c. 44B §5, including, but not limited to, the following: The Community Preservation Committee shall study the needs, possibilities and resources of the Town regarding community preservation. The Committee shall consult with existing municipal boards, including the Select Board, Conservation Commission, the Preservation Commission, The Planning Board, the Park and Recreation Commission, the Council on Aging, the Housing Authority, **the Housing Advisory Board** and the Advisory Committee. As part of its study, the Committee shall hold one or more public informational hearings on the needs, possibilities, and resources of the Town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding the hearing in a newspaper of general circulation in the Town.
- b. The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation, and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation, preservation, rehabilitation and restoration of land for recreational use; for the acquisition, creation, preservation, and support of community housing; and for rehabilitation or restoration of such open space and community housing that is acquired or created with CPA funds. With respect to community housing, the Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites. The Committee's recommendations to Town Meeting shall be subject to G.L. c. 44B, s. 5(b)(2) and shall include their anticipated costs.
- c. The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose, or to set aside for later spending funds for general purposes that are consistent with community preservation.
- d. Prior to making its final recommendations to Town Meeting for approval, the Committee shall present draft recommendations to the Select Board and the Advisory Committee for comment. A designated member of the Select Board and the Advisory Committee may serve as liaisons to the Committee.

Section 3. Administration and Operation

- a. The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum.
- b. The Community Preservation Committee shall approve its actions by majority vote of the quorum.

- c. Each fiscal year, the Committee shall recommend to Town Meeting an operational and administrative budget. The timing of such budget recommendation shall be coordinated with the Town Administrator's annual operating budget submission to the Select Board.

Section 4. Amendments

The Community Preservation Committee shall, from time to time, review the administration of this by-law and make recommendations, as needed, for amendments to the by-law and the Committee's administrative practices to improve its operations.

Section 5. Construction and Severability

At all times this by-law shall be interpreted in a manner consistent with G.L. c. 44B, the Community Preservation Act. Should any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph, or part shall continue in full force and effect.

Section 6. Effective Date

This Bylaw shall take effect immediately upon approval by the Attorney General of the Commonwealth. Each appointing authority shall have forty-five (45) calendar days after approval by the Attorney General to make their initial appointments.

Approved: Aye: 201 No: 8 Abstained: 11

ARTICLE 33

Amend the Town's General Bylaws to require public notification of the Town's eligibility for certain emergency, disaster or stimulus funds and public hearings on the use of such funds

Submitted by: Naomi Sweitzer, TMM 10 (Corresponding petitioner), Hadassah Margolis, TMM 8, Danny Stone, TMM 10, Jonathan Klein, TMM 10

Motioned and duly seconded

Presented by: Naomi Sweitzer

Speakers: Naomi Sweitzer (P10), Paul Warren (P1/AC), John VanScoyoc (SB/AL), Daniel Stone (P10), Robert Lepson (P9), Mike Toffel (P8), Miriam Aschkenasy (SB/AL), Deborah Brown (P1), Michael Sandman (P3/AC)

MOTION to terminate debate

Approved: Aye: 159 No: 44 Abstained: 9

VOTED: Advisory Committee amendment

Approved: Aye: 109 No: 103 Abstained: 6

VOTED: That the Town will adopt the following as a new Article 4.10 of the Town By-laws:

ARTICLE 4.10

Emergency, Disaster and Stimulus Funds

SECTION 4.10.1 Definitions

As used herein, "Emergency funds" refer to a specific allocation of government monies made available to communities that have experienced an emergency. An emergency is a sudden, unforeseen happening requiring action to protect lives or property.

As used herein, "Disaster funds" refer to a specific allocation of government monies made available to communities that have experienced losses due to disasters. A disaster refers to a sudden, calamitous event that seriously disrupts the functioning of a community or society and causes human, material, and economic or environmental losses that exceed the community's or society's ability to cope using its own resources. Disasters can mean both human-made and natural catastrophes.

As used herein, "Stimulus funds" refer to a specific allocation of government monies made available to communities that are designed to generate or increase economic activity linked specifically to a government declared state of emergency or government-declared disaster or national or global financial crisis.

As used herein, qualifying Emergency, Disaster, and Stimulus funds are those that are not in response to one-time weather events that are declared an emergency by the State or Federal government.

As used herein, qualifying Emergency, Disaster, and Stimulus funds are those that provide the Town with \$500,000 or more in a specific allocation of government monies to be used to respond to a government-declared state of emergency, or government declared disaster or national or global financial crisis.

Notwithstanding the foregoing, Stimulus Funds shall not include monies made available under the annual Community Development Block Grant or other annual Federal or Commonwealth of Massachusetts monies made available to the Town outside of emergencies or disasters and shall not include any funds provided to the Public Schools of Brookline.

As used herein, "Information for the ~~public~~ Public on the fund-Fund" refers to the name of the fund, the name of the government funding source, the allowable uses of the fund and if the Town has any discretion on uses, the amount the Town of Brookline is eligible for, any obligation and expenditure deadlines, and if the Town of Brookline intends to ~~seek or apply for~~ accept the funds and web links to the statutory and regulatory requirements governing the funds.

SECTION 4.10.2 Public Disclosure of Emergency, Disaster or Stimulus Funds\

The Town of Brookline shall in the event of being eligible ~~for emergency, disaster or stimulus~~ an allocation of Emergency, Disaster or Stimulus funds from the federal, state, or county government or a combination thereof:

5) Within 10 business days of the Town receiving written notice of funding eligibility announcement, post on the Town's website or the relevant Town Department website with a link

provided to it on the Town website the Information for the ~~public on the fund.~~ Public on the Fund, insofar as the Information is available.

6)5) Within 10 business days of the Town receiving written notice of funding eligibility announcement, send a notification via email or other means containing the Information for the ~~public~~ Public on the ~~funds above Fund~~ to the following groups: Town Meeting Members, ~~the Moderator, the Advisory Committee, and the Select Board, and the School Committee, and if applicable to them, the Housing Authority Board and the Library Trustees.~~ The Town will send the same notification to any Select Board or Moderator Committees or Commissions where the allowable funding uses are applicable. Town may choose to them or the funding is flexible and not fully defined. ~~notify other elected and appointed bodies.~~ The Town will include in the emails notifications where on the Town website or relevant Town Department website the Information for the ~~public~~ Public on the ~~fund~~ Fund can be found and, if available, the contact Information of the Town employee who can answer questions about the fund.

SECTION 4.10.3 Reporting to the Public on Emergency, Disaster or Stimulus Funds

6) ~~On~~ Within 30 days of filing a quarterly basis by April 15, July 15, Oct 15 and Jan 15 required report to the granting or funding authority, the Town will post a report on the Town website listing the Information

for the ~~public~~ Public on the ~~fund~~ Fund. The report will include a table on how the funds have been obligated and expended by Town Departments and said table shall provide specific line item reasonable detail on how the funds were obligated and expended including dollar amounts (for example: "Department of Public Health, Staffing, 2 Full Time Equivalent Nurses" or "Department of Public Works, Supplies, Personal Protective Equipment"). .

7) Within ~~one month~~ 30 days of all funds being expended, a final report similar to the quarterly previously filed reports will be posted on the Town website and notification via email or other means will be provided to: Town Meeting Members, the Moderator, the Advisory Committee, the Select Board, ~~the School Committee, and if applicable to them, the Housing Authority Board and the Library Trustees.~~ The Town will send the same notification to any Select Board or Moderator Committees or Commissions where the allowable funding uses are applicable to them or the funding is flexible and not fully defined and the School Committee.

8) ~~For any emergency, disaster or stimulus funds related to the COVID-19 disaster and emergency that have already been received by the Town, even if they have already been completely expended, the Town shall post a report on the Town website listing the Information for the public on the fund. The report will include an easy-to-read table on how the funds have been obligated and expended to date by Town Departments and providing specific line item detail on how the funds were obligated and expended. This report shall be posted within 30 days after the adjournment of the Annual Town Meeting. After that initial report is posted, if there are funds remaining, the Town shall follow a quarterly reporting schedule as listed above.~~

SECTION 4.10.4 Public's Right to be Heard on Use of Emergency, Disaster and Stimulus Funds

For ~~emergency, disaster~~ Emergency, Disaster or stimulus Stimulus funds that provide the Town with ~~some or full~~ any flexibility in how the funds are spent, within 30 days after 30% of the funds have been obligated in a manner that has been determined to qualify for expenditure, the Select

~~Board and Advisory Committee or their designee will hold a joint public hearing to receive public comment on how the funds are spent. Only one such public hearing shall be required. If a quarterly report as specified in Section 4.10.3 has not been issued prior to the public hearing, the Town will post a report similar to the quarterly report on the Town website, five business days prior to the hearing. The Town is not required to halt spending of the funds while the Town holds the public hearing and prepares the reports.~~

SECTION 4.10.5 Effective Date

All of the requirements in the by-law shall take effect July 1, 2021 or approval by the Attorney General, whichever is later and shall apply to all Emergency, Disaster or Stimulus funds received since February 2020.

Approved Aye: 207

No: 9

Abstained: 3

MOTION to Adjourn, duly seconded

Approved

Night 7: June 3, 2021

- Call to order: 7:00PM
- Meeting called to order by Moderator Poverman

- **MOTION** to defer Article 38 and Article 39 to Monday, duly seconded
Approved
- Point or Personal Privilege: Michael Burstein (P12)

ARTICLES 19 and 20
[DEBATED TOGETHER]

Submitted by: Department of Planning and Community Development

Presented by: Bernard Greene

Speakers: Bernard Greene (SB/AL), Susan Park (P2), Carlos Ridruejo (AC/P14), Ana Albuquerque (P1), Steve Heikin (Planning Board Chair), Alok Somani (AC), Donelle O’Neal Sr (P4), Rui Albuquerque (Resident), Jonathan Margolis (P7), Cher Duffield (P6), Janice Kahn (P15), Arthur Conquest (P6), Regina Frawley (P16), Ana Albuquerque (P1), Bernard Greenee (SB/AL), Jonathan Simpson (Associate Town Counsel), Mike Toffel (P8), Alisa Joans (P16), Monique Baldwin (Cannabis Licensing and Mitigation Coordinator), Michael Sandman (P3/AC), Marissa Vogt (P4), Jonathan Davis (P10), Linda Olson Pehlke (P2)

MOTION to terminate debate

Failed: Aye: 110 No: 93 Abstained: 14

MOTION to terminate debate

Approved: Aye: 143 No: 66 Abstained: 12

VOTED: Motion to Refer Articles 19 & 20 to a moderators committee

Failed: Aye: 104 No: 115 Abstained: 10

Article 19

Amend Article 8.37 of the Town’s General Bylaws pertaining to Marijuana Establishments

Motioned and duly seconded

VOTED: That the Town amend Article 8.37 of the Town’s General By-Laws, “Marijuana Establishments”, as follows (additions are in bold, underlined text, and deletions are in bold, stricken text):

ARTICLE 8.37 MARIJUANA ESTABLISHMENTS

Section 8.37.1 PURPOSE

The intent of this section is to permit Marijuana Establishments to operate pursuant to local requirements to ensure safe and appropriate implementation of Chapter 334 of the Acts of 2016 (Question #4 on the November 8, 2016 ballot), legalizing recreational Marijuana, within the community.

If any provisions of this section shall be held to be invalid, those provisions shall be severable and the remaining sections shall be valid.

Section 8.37.2 DEFINITIONS

See also Massachusetts General Laws Chapter 94G, Section 1, Chapter 94I, Section 1, and the regulations promulgated thereunder, as they may be amended. In the event of a conflict between the following definitions and those contained in the foregoing State laws and regulations, the definitions contained in the foregoing State laws and regulations shall govern.

o. Cannabis Control Commission — the Massachusetts Cannabis Control Commission.

p. **Craft Marijuana Cooperative —a Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, Manufacture, Process, package, brand and Transfer Marijuana or Marijuana Products to Marijuana Establishments, but not to Consumers.**

q. **Finished Marijuana Products –usable Marijuana, Cannabis resin or Cannabis concentrate that is completely manufactured and ready for retail sale and shall include Finished Marijuana that has been separated into individual packages or containers for sale.**

r. Hemp — the plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 per cent on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of Marijuana Product, or the combined per cent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.

s. Manufacture — to compound, blend, extract, infuse or otherwise make or prepare a Marijuana Product.

t. Marijuana — all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided, however, that “Marijuana” shall not include (1) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (2) Hemp; or (3) the weight of any other ingredient combined with Marijuana to prepare topical or oral administrations, food, drink or other products. Marijuana also includes Marijuana Products except where the context clearly indicates otherwise.

u. **Marijuana Accessories –equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing,**

preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing Marijuana into the human body.

v. Marijuana Courier - an entity licensed by the Massachusetts Cannabis Control Commission to deliver Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods directly to consumers from a Marijuana Retailer, or directly to registered qualifying patients or caregivers from an Medical Marijuana Treatment Center, but is not authorized to sell Marijuana or Marijuana Products directly to consumers, registered qualifying patients or caregivers and is not authorized to wholesale, Marijuana Warehouse, process, repackage, or White Label.

w. Marijuana Cultivator — an entity licensed by the Cannabis Control Commission to cultivate, process, and package Marijuana, to deliver Marijuana to Marijuana Establishments and to transfer Marijuana to other Marijuana Establishments, but not to consumers.

x. Marijuana Delivery ~~Only Marijuana Retailer~~ Operator — an entity licensed by the Massachusetts Cannabis Control Commission to purchase at wholesale and Marijuana Warehouse Finished Marijuana Products and White Label, sell and deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods directly to consumers, but is not authorized to repackage Marijuana or Marijuana Products or operate a storefront under this license. For Marijuana Delivery Operators, the location of the Marijuana Warehouse shall be the Licensee's principle place of business within the Town. a Marijuana Retailer that does not provide a retail location accessible to the public, but is authorized to deliver directly from a Marijuana Cultivator facility, Craft Marijuana Cultivator Cooperative facility, Marijuana Product Manufacturer facility, or Marijuana Microbusiness.

y. Marijuana Establishment — a Marijuana Retailer, Marijuana Product Manufacturer, Marijuana Cultivator, Marijuana Independent Testing Laboratory, or any other type of Cannabis Control Commission-licensed Marijuana-related business or entity.

z. Marijuana Establishment Agent — any owner, employee, executive, or volunteer of a Marijuana Establishment, who shall be 21 years of age or older. Employee includes a consultant or contractor who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of Marijuana. a board member, director, employee, executive, manager, or volunteer of a Marijuana Establishment, who is 21 years of age or older. Employee includes a consultant who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of Marijuana

aa. Marijuana Establishment Branded Goods — a merchandise item offered for sale by a Marijuana Establishment, and identifiable as being of a particular Marijuana Establishment, distinct from those of other entities, by having the

Marijuana Establishment's brand name. A Marijuana Establishment Branded Good does not include Marijuana, Marijuana Products, or Marijuana Accessories. It may include apparel, water bottles or other similar non-edible merchandise.

bb. Marijuana Independent Testing Laboratory — **an entity licensed or registered by the Massachusetts Cannabis Control Commission that is (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation Mutual Recognition Arrangement or that is otherwise approved by the Cannabis Control Commission; (ii) independent financially from any Medical Marijuana Treatment Center or any Cannabis Control Commission licensee or Marijuana Establishment of which it conducts a test; and (iii) qualified to test Marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments. qualified to test Marijuana and Marijuana Products in conformity with State law.**

m. Marijuana Products — **Marijuana and its products, unless otherwise indicated. Marijuana Products includes products that have been manufactured and contain cannabis, marijuana, or an extract from cannabis or marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including edibles, beverages, topical products, ointments, oils and tinctures. Marijuana Products include Marijuana-infused Products (MIPs). products that have been manufactured and contain Marijuana or an extract from Marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.**

aa. Marijuana Product Manufacturer — an entity licensed by the Massachusetts Cannabis Control Commission to obtain, manufacture, process and package Marijuana and Marijuana Products, ~~to deliver Marijuana and Marijuana Products to Marijuana Establishments~~ and to transfer Marijuana and Marijuana Products to other Marijuana Establishments, but not to consumers.

bb. **Marijuana Research Facility – an academic institution, nonprofit corporation or domestic corporation or entity licensed by the Massachusetts Cannabis Control Commission to conduct research.**

cc. Marijuana Retailer — **an entity licensed by the Massachusetts Cannabis Control Commission to purchase, and deliver Marijuana and Marijuana Products from Marijuana Establishments and to deliver, sell or otherwise transfer Marijuana and Marijuana Products to Marijuana Establishments and to consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments. repackage, White Label, and transport Marijuana or Marijuana Product from Marijuana Establishments and to transfer**

or otherwise transfer this product to Marijuana Establishments and to sell to Consumers.

dd. **Marijuana Transporter – An entity, not otherwise licensed by the Massachusetts Cannabis Control Commission, that is licensed by the Massachusetts Cannabis Control Commission to possess Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments or Medical Marijuana Treatment Centers, but not to consumers.**

ee. **Marijuana Warehouse – Marijuana Warehouse means an indoor structure or a portion of the structure on the licensed Premises used by a Marijuana Establishment for the onsite storage of Marijuana and Marijuana Products in compliance with the regulatory requirements of 935 CMR 500.000 including the requirements for security, storage and disposal. For Marijuana Delivery Operators, the location of the Marijuana Warehouse shall be the Licensee's principle place of business within the Town.**

ff. **Marijuana Warehousing – Marijuana Warehousing means the onsite storage of Marijuana and Marijuana Products that have been purchased at wholesale for eventual resale.**

gg. Medical Marijuana Treatment Center— an entity **licensed by the Massachusetts Cannabis Control Commission** that acquires, cultivates, possesses, processes (including development of related products such as edibles, Marijuana-infused products, tinctures, aerosols, oils, or ointments), **repackages, transfers,**—transports, sells, distributes, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use.

hh. Mixed Use Social Consumption Marijuana Retailer — a Marijuana Retailer that is in possession of a **Select Board Cannabis Control Commission** Mixed Use Social Consumption Marijuana Retailer license (~~as may be further provided by 935 CMR,~~ any commercial enterprise for which 50% or less of average monthly revenue shall be derived from the sale of marijuana products to be consumed on the premises).

ii. Primary Use Social Consumption Marijuana Retailer — a Marijuana Retailer that is in possession of a **Select Board Cannabis Control Commission** Primary Use Social Consumption Marijuana Retailer license (~~as may be further provided by 935 CMR,~~ any commercial enterprise for which 51% or more of average monthly revenue shall be derived from the sale of marijuana products to be consumed on the premises).

jj. Social Consumption Marijuana Retailer — a Marijuana Retailer licensed by the Cannabis Control Commission to ~~purchase Marijuana and Marijuana Products from Marijuana Establishments and to~~ sell Marijuana and Marijuana Products on its premises only to consumers or allow consumers to consume Marijuana and Marijuana Products **and**

allow consumers to consumer Marijuana or Marijuana Products solely on its premises only.

kk. Standards Laboratory – a laboratory meeting the requirements of the Independent Testing laboratory that is licensed by the Massachusetts Cannabis Control Commission as a Standards Laboratory to ensure consistent and compliant testing by the Independent Testing Laboratories.

ll. Storefront Marijuana Retailer — a Marijuana Retailer providing a retail location accessible to consumers 21 years of age or older or in possession of a registration card demonstrating that the individual is a registered qualifying patient with the Massachusetts Medical Use of Marijuana Program.

mm. White Labeling – White Labeling means to affix a product label that includes the branding, including the name and logo, of a specific Marijuana Establishment Licensee to a Finished Marijuana Product that was previously produced and packaged by a licensed Product Manufacturer, Cultivator, Microbusiness or Craft Marijuana Cooperative for sale to Consumers.

~~Section 8.37.3 MEDICAL MARIJUANA TREATMENT CENTERS~~

~~Medical Marijuana Treatment Centers licensed prior to July 1, 2017 may be licensed pursuant to Section 8.37. 6 below or under Article 8.34 of the General By-Laws, as the Select Board may determine in conformity with applicable State and local laws.~~

Section 8.37.~~34~~ CAPS ON THE NUMBER OF SELECT BOARD LICENSES FOR MARIJUANA RETAILERS

The Select Board shall not issue more Marijuana Establishment licenses in each of the following categories of Marijuana Establishment licenses than the number that is 20% of the number of liquor licenses for off-premises alcohol consumption that have been issued by the Select Board pursuant to M.G.L. c. 138, § 15, as rounded up to the nearest whole number in the event the number is a fraction: a) Storefront Marijuana Retailers, b) Marijuana Delivery Operators~~Delivery-Only Marijuana Retailers~~; and c) Social Consumption Marijuana Retailers, and d) Marijuana Couriers.

Section 8.37.~~45~~ GENERAL REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS

Marijuana Establishments shall comply with the following requirements:

E. General

6. Marijuana Establishments shall comply with applicable State and local laws, regulations, by-laws, codes, conditions and agreements with the Town, including, but not limited to, M.G.L. c. 94G, M.G.L. c. 94I, 935 CMR 500, the Town of Brookline's General

By-Laws, the Town of Brookline's Zoning By-Laws, all applicable Town building, fire prevention, police, and health codes, regulations and standards, any conditions imposed on licenses and permits held by the Marijuana Establishment (including, but not limited to, the Town's Zoning Board of Appeals special permit).

7. Marijuana Establishments shall execute and maintain a Host Community Agreement with the Town which shall include the conditions for having the Marijuana Establishment within the Town in conformity with applicable law.

8. Marijuana Establishments shall maintain all permits and licenses required by State and local laws, including, but not limited to, a valid, current license in good standing from the Cannabis Control Commission. Any voiding of the Cannabis Control Commission's license by operation of law (including due to cessation of operations, failure to become operational within the permitted time, or relocation without Cannabis Control Commission approval), and any revocation or suspension of the Marijuana Establishment's Cannabis Control Commission license, shall result in an automatic suspension of the Select Board license pending hearing or the opportunity therefore afforded to the Marijuana Establishment.

9. All taxes and charges owed to the Town must be paid on a current basis. The Town may place a lien on the property of any person who has an outstanding balance due the Town from any fee, charge or tax, which balance is at least six (6) months past due.

10. Any Marijuana Establishment licensee wishing to close a place of business or cease operations, whether on a temporary or permanent basis, may do so only if permitted by State law and must submit to the Select Board a written request for the Select Board's permission to do so, stating the reason for and length of such closing or inactivity. Failure to provide such notice and to obtain such permission may, after hearing or reasonable opportunity therefor, result in cancellation of the license.

F. Operational Requirements

18. All Marijuana Establishments' licensed operations shall be conducted within a building or fixed structure.

19. No Marijuana Establishment shall allow cultivation, processing, manufacture, sale or display of Marijuana or Marijuana Products to be visible from a public place without the use of binoculars, aircraft or other optical aids.

20. Marijuana Establishments may cultivate, process, test, store and manufacture Marijuana or Marijuana Products only within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the Marijuana Establishment to access the area.

21. No Marijuana Establishment shall allow any person under 21 years of age to volunteer or work for the Marijuana Establishment.

22. The hours of operation of Marijuana Establishments shall be set by the Select Board. The licensee shall not change its hours of operation without Board approval.
23. Marijuana Establishments shall ensure that their hours and methods of transportation of product shall not be a detriment to the surrounding area and nearby uses.
24. Marijuana Establishments shall not permit any disorder, disturbance, or illegality under State or local law of any kind on the premises.
25. Marijuana Establishment operations shall not result in illegal redistribution under State or local law of Marijuana obtained from the Marijuana Establishment, or in use of Marijuana in any manner that violates State or local law.
26. Marijuana Establishment operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding its premises and adjacent properties. “Nuisance” includes, but is not limited to, disturbances of the peace, open public consumption of Marijuana, excessive pedestrian or vehicular traffic, odors emanating from the Marijuana Establishment’s premises, electrical lighting, illegal drug activity under State or local law, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, excessive citation for violations of State traffic laws and regulations and/or Transportation Department Rules and Regulations, queuing of patrons (vehicular or pedestrian) in or other obstructions of the public way (sidewalks and streets), collisions between vehicles, bicyclists, and pedestrians, lewd conduct or police detentions and arrests.
27. Marijuana Establishments shall equip the premises and otherwise conduct their operations in such a manner that (a) no pesticides or other chemicals or products are dispersed into the outside atmosphere, and (b) no odor of Marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the facility or at any adjoining use or property.
28. A Marijuana Establishment shall be required to remove all Marijuana and Marijuana Products by the earlier of:
- a) prior to surrendering its State-issued license; or
 - b) within six (6) months of ceasing operations.
29. Marijuana Establishments shall comply with 527 CMR and with Chapter 38 of the NFPA 1 (2018), as they may be amended, and as applicable.
30. Marijuana Retailers **and Marijuana Delivery Operators** are required to engage in patron age verification using legally-acceptable proof of age as may be further specified by the Select Board license.

31. Marijuana Retailers **and Marijuana Delivery Operators** shall not sell or offer for sale Marijuana or Marijuana Products in a quantity that exceeds the limits established by 935 CMR 500.

32. Marijuana Establishments shall not supply Marijuana or Marijuana Products free of charge or in connection with a commercial or promotional endeavor within the Town of Brookline. Such endeavors include, but are not limited to, product “giveaways”, or distribution of Marijuana or Marijuana Products as an incentive, prize or bonus in a game, contest or tournament involving skill or chance.

33. Marijuana Retailers are prohibited from use of on-site self-service displays. Self-service displays are defined to mean displays from which customers may select Marijuana or Marijuana Products without assistance from an employee or store personnel, and include vending machines.

34. Consumption of Marijuana in the interior or exterior of the premises is not permitted except as follows. Duly-licensed Social Consumption Marijuana Retailers may permit on-premises consumption of Marijuana and Marijuana Products which they are licensed to sell to customers purchasing their products who are aged 21 years and older in the event that on-premises consumption is approved by the Town pursuant to and in the manner provided by M.G.L. c. 94G, § 3(b). In the event that on-premises consumption is approved by the Town in such manner, Social Consumption Marijuana Retailers must abide by all State and local requirements for Marijuana Establishments. Social Consumption Marijuana Retailers shall comply with all legal requirements pertaining to verification that a patron is at least 21 years of age utilizing acceptable forms of proof of age, including any proof-of-age verification requirements established by the Select Board in connection with the local licensing of Marijuana Establishments. In no event shall Social Consumption Marijuana Retailers permit the smoking of Marijuana or Marijuana Products on the premises. Smoking is defined to mean the lighting of, or having in one’s possession any lighted cigarette, cigar, pipe or other product designed to be combusted and inhaled. The activation of or inhalation of vapor from an e-cigarette or other similar device shall be considered smoking.

G. Security-Specific Requirements

5. Marijuana Establishments shall maintain compliance with any Town Police Department-approved security and public safety plan as the Police Department may require, which plan may include measures relating to alarms, fencing, gates, limited access areas, delivery procedures, police details, specification of video and lighting locations, notifications to the Police Department in the event of any known or suspected violation of criminal law that has taken place on or near the location of the establishment (related or unrelated to the business or the establishments), providing access to and transfer of video footage from the establishment’s video surveillance system to the Police Department when the Police Department so requests (which request may be made when the Police Department has a reason to believe that such footage may be of assistance in an ongoing investigation related or non-related to the business of the establishment), a requirement to

connect an alarm system to a third party monitoring system and to notify the Town's Chief of Police about said third party monitoring system, and any other notifications and security-related measures as may be required by the Police Department and the Select Board.

6. Marijuana Establishments shall secure every entrance to the Marijuana Establishment so that access to areas containing Marijuana is restricted to employees and others permitted by the Marijuana Establishment to access the area and to agents of the Cannabis Control Commission or state and local law enforcement officers and emergency personnel.

7. Marijuana Establishments shall secure their inventory and equipment during and after operating hours to deter and prevent theft of Marijuana, Marijuana Products and Marijuana Accessories.

8. Marijuana Establishments shall file an emergency response plan with the Town's Fire, Police and Health Departments and share with these Departments their security plan and procedures and any updates to them in the event they are modified.

H. Access to Premises and Information/Reporting/Record-Keeping

4. Marijuana Establishments shall consent to unannounced, unscheduled, periodic inspections of its premises by the Select Board and agents of the Select Board from the Building, Health, Police and Fire Departments (which, when conducted by the Police Department, shall be by a sworn police officer holding the rank of Sergeant or higher) on week-days during normal business hours to determine the Marijuana Establishment's compliance with the requirements of applicable state and local laws, regulations, codes, license and permit conditions, and this section. In addition, routine inspections may be made on week-days during regular Town business hours by authorized inspectional departments to determine compliance with applicable state and local laws, regulations, codes and license and permit conditions. Inspections by the authorized inspectional departments may be made at other times to investigate complaints or suspected non-compliance issues. Inspections may include all areas occupied, used or controlled by the Marijuana Establishment. Facilities requiring re-inspection are subject to applicable re-inspection fees. Inspections shall be conducted in conformity with applicable federal, state and local law.

5. Marijuana Establishments shall cooperate and comply with requests for information made by the Select Board and its agents from the Planning, Building, Health, Police, Fire and Public Works Departments.

6. Within twenty-four (24) hours of receipt of notice of it, a Marijuana Establishment shall file with the Town Administrator, Director of Public Health and the Building Commissioner any summary cease and desist order, cease and desist order, quarantine order, suspension order, revocation order, order limiting sales, deficiency statement, plan of correction, notice of a hearing, notice of any other administrative process or legal action, denial of a license, denial of a renewal of a license, or final action

issued by a state or federal agency (including, but not limited to, the Cannabis Control Commission and Massachusetts Department of Public Health (DPH)) regarding the Marijuana Establishment, the Cannabis Control Commission license, or the DPH Certificate of Registration.

Section 8.37. ~~56~~ MARIJUANA ESTABLISHMENT SELECT BOARD LICENSE

- l. No person shall operate a Marijuana Establishment or sell Marijuana within the Town unless licensed to do so by the Select Board. Unless the Select Board license states a different duration, a Marijuana Establishment license shall be valid for a term of one year from the first day of January. Each day of operation without a Select Board license shall constitute a separate violation.
- m. A Select Board license shall be subject to the Marijuana Establishment's compliance with this Article 8.37 and with any conditions placed on the Marijuana Establishment's license. An applicant's or licensee's violation of this Article 8.37 and applicable State and local law shall be good cause for and may result in the Select Board's denial of an application or sanction of a license to the extent permitted by law, including, but not limited to, the imposition of additional conditions on a license, a reduction or modification of the licensee's approved hours of operations, or a suspension, non-renewal, revocation, forfeiture, or cancellation of a license. No sanction shall be made except after notice and opportunity for hearing.
- n. The Select Board may issue regulations for the implementation of this By-Law.
- o. The Select Board shall specify the process and forms to be used by applicants for new and renewed licenses.
- p. All license applications must contain complete and truthful information. Submission of an application containing material false information may be cause for refusing the application or for suspending, canceling or revoking a license already granted. No application will be accepted for filing by the Select Board until it is fully complete. Annual license fees shall be payable immediately upon approval of the license by the Select Board. License fees shall not be prorated and are not refundable. Application and license fees shall be in an amount established by the Select Board pursuant to M.G.L. c. 40, § 22F.
- q. No Select Board licensee may transfer a license to another person or entity, or transfer the license or operations to another location, without Select Board approval. A Select Board licensee must obtain Select Board approval for a change to or addition of Board Member, Executive, Director and/or Managers, as may be determined by the Select Board. Any transfer shall be subject to the terms and conditions of the original license, unless otherwise stipulated by the Board.
- r. A Select Board licensee must apply for and obtain the approval of the Select Board or its designee prior to making any structural change to the premises.

- s. The Select Board licensee shall display its license on the premises in a conspicuous place where it can be easily read.
- t. The Select Board or its designee may inspect a Marijuana Establishment and affiliated vehicles prior to the issuance of a Marijuana Establishment license or renewal of a license.
- u. All areas of a Marijuana Establishment may be subject to inspection consistent with applicable law.
- v. The Select Board may, to the extent permitted under applicable law, consider whether an applicant for a license is a suitable and responsible license candidate and other aspects of the application as may be necessary to implement the purposes of this By-Law. An applicant's non-compliance with applicable Massachusetts laws and regulations (including 935 CMR 500), Town by-laws (including this Article and applicable sections of the Town's Zoning By-Law), Town regulations and codes, and any conditions on a license may be cause for denial of an application for a new or renewed Marijuana Establishment license.

Section 8.37. ~~68~~ FINES

Any person violating this By-Law shall be fined in the amount of \$100 for each violation. Each day of a continuing violation shall count as a separate violation.

Section 8.37. ~~78~~ IMPLEMENTATION

This By-Law shall not be implemented in a manner that conflicts or interferes with the Massachusetts General Laws Chapter 94G or Chapter 94I, or with the regulations promulgated thereunder, including 935 CMR 500.

Approved: Aye: 167 No: 45 Abstained: 14

Article 20

Amend the Town's Zoning Bylaws to conform to amended state regulations pertaining to the licensing and regulation of Marijuana Couriers and Delivery Operators

Motioned and duly seconded

VOTED: To amend the Brookline Zoning By-law as follows:

By amending §2.13, "M" Definitions, as follows (additions are denoted in ***bold, italicized*** text, deletions are denoted in ~~stricken~~ text):

~~10. 12.~~ **MARIJUANA** — As defined or amended by State regulations, all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined

in section 1 of chapter 94C; provided, however, that “Marijuana” shall not include (1) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (2) hemp; or (3) the weight of any other ingredient combined with Marijuana to prepare topical or oral administrations, food, drink or other products. Marijuana also includes Marijuana Products except where the context clearly indicates otherwise.

- a. Marijuana, Hemp — As defined or amended by State regulations, the plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 per cent on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of Marijuana product, or the combined per cent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.

~~11.~~**13. MARIJUANA ACCESSORIES** – *As defined or amended by State regulations, equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing Marijuana into the human body.*

~~12.~~**14. MARIJUANA ESTABLISHMENT** – As defined or amended by State regulations, a Marijuana Retailer, Marijuana Product Manufacturer, Marijuana Cultivator, Independent Testing Laboratory, or any other type of Marijuana-related business that has been duly licensed by the Massachusetts Cannabis Control Commission or relevant State agency.

- a. *Marijuana Establishment, Marijuana-Courier* – *As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to deliver Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods directly to consumers from a Marijuana Retailer, or directly to registered qualifying patients or caregivers from an Medical Marijuana Treatment Center, but is not authorized to sell Marijuana or Marijuana Products directly to consumers, registered qualifying patients or caregivers and is not authorized to wholesale, Warehouse, process, repack, or White Label. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*

- b. Marijuana Establishment, Craft Marijuana-Cultivator-Cooperative — As defined or amended by State regulations, a Marijuana Cultivator comprised of residents of Massachusetts organized as a limited liability company or limited liability partnership under Massachusetts law, or an appropriate business structure as determined by the Massachusetts Cannabis Control Commission, and that is licensed by the ~~Massachusetts~~ Cannabis Control Commission to cultivate, obtain, manufacture,

process, package, ~~and brand~~ **and transfer** Marijuana ~~or~~ and Marijuana Products to deliver Marijuana to Marijuana Establishments but not to consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.

c. Marijuana Establishment, Marijuana Cultivator – As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to cultivate, process, and package Marijuana, to deliver Marijuana to Marijuana Establishments and to transfer Marijuana to other Marijuana Establishments, but not to consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.

d. Marijuana Establishment, **Marijuana Delivery Operator** ~~Only Marijuana Retailer~~ — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission **to purchase at wholesale and Warehouse Finished Marijuana Products and White Label, sell and deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods directly to consumers, but is not authorized to repackage Marijuana or Marijuana Products or operate a storefront under this license. For Delivery Operators, the location of the Warehouse shall be the Licensee's principle place of business within the Town.** ~~as a Marijuana Retailer that does not provide a retail location accessible to the public, but is authorized to deliver directly from a Marijuana Cultivator facility, Craft Marijuana Cultivator Cooperative facility, Marijuana Product Manufacturer facility, or Micro-Business. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.~~

e. Marijuana Establishment, Marijuana Independent Testing Laboratory — As defined or amended by State regulations, an entity licensed **or registered** by the Massachusetts Cannabis Control Commission that is (i) ~~accredited to the most current International Organization for Standardization 17025 by a third party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation Mutual Recognition Arrangement or that is otherwise approved by the Cannabis Control Commission;~~ (ii) ~~independent financially from any Medical Marijuana Treatment Center or any Cannabis Control Commission licensee or Marijuana Establishment of which it conducts a test; and (iii) qualified to test Marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.~~ **qualified to test Marijuana and Marijuana Products in conformity with State law. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.**

f. Marijuana Establishment, Marijuana Micro-Business — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission **to operate as a** ~~act as a co-located licensed Marijuana Cultivator in an area less than 5,000 square feet, a licensed Marijuana Product Manufacturer, and a~~

~~licensed Marijuana Delivery Service, in compliance with operating procedures for each such license and siting requirements for each type of licensee. **Tier 1 Marijuana Cultivator or Marijuana Product Manufacturer or both, and, if in receipt of a Delivery Endorsement issued by the Massachusetts Cannabis Control Commission, to deliver Marijuana or Marijuana Products produced at the licensed location directly to consumers in compliance with established regulatory requirements for retail sale as it relates to delivery. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.**~~

g. Marijuana Establishment, Marijuana Product Manufacturer — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to ~~obtain, manufacture, process and package Marijuana and Marijuana Products, to deliver Marijuana and Marijuana Products to Marijuana Establishments and to transfer Marijuana and Marijuana Products to other Marijuana Establishments, but not to consumers~~ **obtain, manufacture, process and package Marijuana or Marijuana Products and to transfer these products to other Marijuana Establishments, but not to Consumers.** This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.

h. Marijuana Establishment, Marijuana Research Facility — As defined or amended by State regulations, an **academic institution, nonprofit corporation or domestic corporation or entity licensed by the Massachusetts Cannabis Control Commission to conduct research** ~~entity licensed by the Massachusetts Cannabis Control Commission to engage in research projects, including cultivation, purchase or acquisition otherwise of Marijuana for the purpose of conducting research regarding Marijuana and Marijuana Products or any analogous uses. A Marijuana Research Facility may be academic institutions, non profit corporations and domestic corporations or entities authorized to do business in Massachusetts. A Marijuana Research Facility may hold a Cannabis Control Commission Marijuana Retailer License to sell Marijuana and Marijuana Products other than Marijuana cultivated under its research license. -~~ This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments. -

i. Marijuana Establishment, Marijuana Retailer — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to ~~purchase, and deliver Marijuana and Marijuana Products from Marijuana Establishments and to deliver, sell or otherwise transfer Marijuana and Marijuana Products to Marijuana Establishments and to consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.~~ **repackage, White Label, and transport Marijuana or Marijuana Product from Marijuana Establishments and to transfer or otherwise transfer this product to Marijuana Establishments and to sell to Consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.**

j. Marijuana Establishment, Social Consumption Marijuana Retailer — As defined or amended by State regulations *and the Town's General Bylaws*, a Marijuana Retailer licensed by the Massachusetts Cannabis Control Commission *to sell Marijuana or Marijuana Products and allow consumers to consume Marijuana or Marijuana Products solely on its premises. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.* ~~to purchase Marijuana and Marijuana Products from Marijuana Establishments and to sell Marijuana and Marijuana Products on its premises only to consumers or allow consumers to consume Marijuana and Marijuana Products on its premises only.~~

k. Marijuana Establishment, Marijuana Transporter — As defined or amended by State regulations, an entity, not otherwise licensed by the Massachusetts Cannabis Control Commission, that is licensed by the *Massachusetts* Cannabis Control Commission to ~~purchase, obtain and possess Marijuana and Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, not for sale to consumers. This definition includes the foregoing uses described in this definition when conducted by Marijuana Establishments.~~ *possess Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments or Medical Marijuana Treatment Centers, but not to consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*

l. Marijuana Establishment, Medical Marijuana Treatment Center — As defined or amended by State regulations, an entity *licensed by the Massachusetts Cannabis Control Commission* that ~~acquires, cultivates, possesses, processes (including development of related products such as edible Marijuana-infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use, as otherwise defined by State law. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.~~ *acquires, cultivates, possesses, processes (including development of related products such as edibles, MIPs, tinctures, aerosols, oils, or ointments), repackages, transports, sells, distributes, delivers, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*

m. Marijuana Establishment, Standards Laboratory — As defined or amended by State regulations, a laboratory meeting the requirements of the Independent Testing laboratory that is licensed by the Massachusetts Cannabis Control Commission as a Standards Laboratory to ensure consistent and compliant testing by the Independent

Testing Laboratories. *This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*

n. Marijuana Establishment, Storefront Marijuana Retailer — As defined or amended by State regulations, a Marijuana Retailer providing a retail location accessible to consumers 21 years of age or older or in possession of a registration card demonstrating that the individual is a registered qualifying patient with the Medical Use of Marijuana Program. *This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*

~~13-15.~~ MARIJUANA ESTABLISHMENT AGENT — As defined or amended by State regulations, ~~a board member, director, employee, executive, manager, or volunteer of a Marijuana Establishment, who is 21 years of age or older. Employee includes a consultant who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, dispensing, or any other analogous uses of Marijuana.~~ *any owner, employee, executive, or volunteer of a Marijuana Establishment, who shall be 21 years of age or older. Employee includes a consultant or contractor who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of Marijuana.*

~~14-16.~~ MARIJUANA ESTABLISHMENT BRANDED GOODS — *a merchandise item offered for sale by a Marijuana Establishment, and identifiable as being of a particular Marijuana Establishment, distinct from those of other entities, by having the Marijuana Establishment's brand name. A Marijuana Establishment Branded Good does not include Marijuana, Marijuana Products, or Marijuana Accessories. It may include apparel, water bottles or other similar non-edible merchandise.*

17. MARIJUANA PRODUCTS — As defined or amended by State regulations, ~~products that have been manufactured and contain Marijuana or an extract from Marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.~~ *Marijuana and its products, unless otherwise indicated. Marijuana Products includes products that have been manufactured and contain cannabis, marijuana, or an extract from cannabis or marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including edibles, beverages, topical products, ointments, oils and tinctures. Marijuana Products include Marijuana-infused Products (MIPs).*

a. *Marijuana Products, Finished* – As defined or amended by State regulations, *usable Marijuana, Cannabis resin or Cannabis concentrate that is completely manufactured and ready for retail sale and shall include Finished Marijuana that has been separated into individual packages or containers for sale.*

~~16-18.~~ MARIJUANA, MANUFACTURE — As defined or amended by State regulations, *to compound, blend, extract, infuse or otherwise make or prepare a Marijuana product.*

19. MARIJUANA, MARIJUANA MANUFACTURER RESIDENTIAL USE: Residential Marijuana ~~e~~Extraction by ~~n~~Non-licensed ~~e~~Establishments or ~~i~~Individuals utilizing extraction processes that pose an explosive or flammable danger, including solvent-based extraction and any method utilizing liquefied petroleum gas (“LPG”, as may be defined by NFPA1, including propylene, propane, butane, butylenes, and mixtures thereof).’

16.20. MARIJUANA, WAREHOUSE – Marijuana Warehouse means an indoor structure or a portion of the structure on the licensed Premises used by a Marijuana Establishment for the onsite storage of Marijuana and Marijuana Products in compliance with the regulatory requirements of 935 CMR 500.000 including the requirements for security, storage and disposal. For Delivery Operators, the location of the Warehouse shall be the Licensee’s principle place of business within the Town.

17.21. MARIJUANA, WAREHOUSING – Marijuana Warehousing means the onsite storage of Marijuana and Marijuana Products that have been purchased at wholesale for eventual resale.

18.22. MARIAJUANA, WHITE LABELING – Marijuana White Labeling means to affix a product label that includes the branding, including the name and logo, of a specific Marijuana Establishment Licensee to a Finished Marijuana Product that was previously produced and packaged by a licensed Product Manufacturer, Cultivator, Microbusiness or Craft Marijuana Cooperative for sale to Consumers.

And further, by amending §4.07, Table of Use Regulations, as follows (all uses are new):

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
20B. Medical Marijuana Treatment Centers (see Section 4.13 for applicable definition), and uses analogous to Marijuana Retailer Uses Only Registered Marijuana Dispensary (RMD)* * To be eligible for a special permit under Use 20B, the requirements under Sec. 4.12, Registered Marijuana	No	No	No	No	No	No	SP* ²	SP* ²	SP*

Dispensary, and Sec. 4.13, Marijuana Establishments, shall be met, as each may be applicable.									
20C. Delivery-Only Marijuana Retailers Marijuana Couriers and Marijuana Transporters *To be eligible for a special permit under Use 20C, the requirements under Sec. 4.13, Marijuana Establishments, shall be met.	No	No	No	No	No	SP* ¹	SP* ¹	SP* ¹	SP* ¹
20D. Marijuana Delivery Operators *To be eligible for a special permit under Use 20D, the requirements under Sec. 4.13, Marijuana Establishments, shall be met. *For Use 20D, all storage of materials and equipment and all business operations, such as loading, parking, and storage of commercial vehicles, shall be within an enclosed building.	No	No	No	No	No	No	No	SP* ¹	SP* ¹
29A. Storefront Marijuana Retailers, stores of less than 5,000 square feet of gross floor area per establishment	No	No	No	No	No	SP* ^{1, 2}	SP* ^{1, 2}	No	SP* ¹

* Permitted by special permit pursuant to Section 4.13, Marijuana Establishments									
29B. Social Consumption Marijuana Retailers * Permitted by special permit pursuant to Section 4.13, Marijuana Establishments, only in the event of a Town-wide vote approving on-site consumption pursuant to M.G.L c.94G, § 3(b).	No	No	No	No	No	SP* ¹ , 2	SP* ¹ , 2	No	SP* ¹
36C. Marijuana Independent Testing Laboratories, Marijuana Standards Laboratories, and Marijuana Research Facilities * To be eligible for a special permit under Use 36C, the requirements under Sec. 4.13, Marijuana Establishments, and Use 36A. and 36B., restrictions on Marijuana Research Laboratories, shall be met.	No	No	No	No	No	No	SP* ¹ , 2	SP* ¹ , 2	SP* ¹
38D. Marijuana Cultivators * Permitted by special permit pursuant to Section 4.13, Marijuana Establishments	No	No	No	No	No	SP* ¹ , 2	SP* ¹ , 2	SP* ¹ , 2	SP* ¹

46B. Marijuana Product Manufacturers * Permitted by special permit pursuant to Section 4.13, Marijuana Establishments	No	No	No	No	No	No	No	No	SP* ¹
Accessory Uses	Residence				Business				Ind.
	S	SC	T	F	M	L	G	O	I
65A. Marijuana Manufacturer Residential Uses	No	No	No	No	No	No	No	No	No

FOOTNOTES:

10. Allowed use by Special Permit unless a Town-wide vote bans this use.

11. No manufacturing of Marijuana is permitted in these districts.

And further, by creating a new §4.13, Marijuana Establishments with the following requirements:

§4.13 -Marijuana Establishments

4. Purpose

The intent of this section is to permit Marijuana Establishments to operate in locations and pursuant to local requirements that ensure safe and appropriate implementation of Chapter 334 of the Acts of 2016 (Question #4 on the November 8, 2016 ballot), legalizing recreational Marijuana, within the community.

If any provisions of this section shall be held to be invalid, those provisions shall be severable and the remaining sections shall be valid.

5. Definitions

See Massachusetts General Laws Chapter 94G, Section 1, Chapter 94I, Section 1, and the regulations promulgated thereunder, as they may be amended, as well as Section 2, Definitions, of the Zoning By-Law for further definitions of applicable terms.

~~6. Medical Marijuana Treatment Centers~~

~~Medical Marijuana Treatment Centers licensed prior to July 1, 2017 shall be subject to §2.13(1) (“Medical Marijuana Treatment Center”), §4.07, Use 20B, and §4.12 (“Registered Marijuana Dispensary (RMD)”) of the Zoning By Laws and not this section, subject to the following: In the event that the medical Marijuana licensing process by the Select Board pursuant to Article 8.34 of the General By Laws is discontinued in whole or in part, a medical Marijuana treatment center not subject to Select Board licensing pursuant to Article 8.34 shall then be subject to the requirements established for Storefront Marijuana Retailers.~~

12. Cap on the Number of Special Permits for Marijuana Retailers, *Marijuana Couriers, and Marijuana Delivery Operators, and Social Consumption Marijuana Retailers*

The Zoning Board of Appeals shall not grant a special permit if doing so would result in a total number of outstanding special permits granted to Marijuana Retailers, *Marijuana Couriers, Marijuana Delivery Operators, and Social Consumption Marijuana Retailers* that exceeds any cap set by a General By-Law on the number of Select Board Marijuana Establishment licenses that can be issued to Marijuana Retailers, *Marijuana Couriers, Marijuana Delivery Operators, and Social Consumption Marijuana Retailers*.

If no such General By-Law is in effect at the time of a vote by the Zoning Board of Appeals on a special permit application, the Zoning Board of Appeals shall not issue a special permit if doing so would result in a total number of outstanding special permits that exceeds the following limitations: The Zoning Board of Appeals shall not issue more special permits in each of the following categories of Marijuana Establishment licenses than the number that is 20% of the number of liquor licenses for off-premises alcohol consumption that have been issued by the Select Board pursuant to M.G.L. c. 138, § 15, as rounded up to the nearest whole number in the event the number is a fraction: a) Storefront Marijuana Retailers; b) ~~Delivery-Only Marijuana Retailers~~ *Marijuana Couriers*; c) *Marijuana Delivery Operators*; and d) Social Consumption Marijuana Retailers.

13. ~~General Requirements for Marijuana Establishments~~

~~Marijuana Establishments shall comply with the following requirements:~~

F. ~~General~~

~~4. — Marijuana Establishments shall comply with applicable State and local laws, regulations, by laws, codes, conditions and agreements with the Town, including, but not limited to, M.G.L. c. 94G, M.G.L. c. 94I, 935 CMR 500, the Town of Brookline's General By-Laws, the Town of Brookline's Zoning By-Laws, all applicable Town building, fire prevention, police, and health codes, regulations and standards, any conditions imposed on licenses and permits held by the Marijuana Establishment (including, but not limited to, the Town's Zoning Board of Appeals special permit), and agreements between the Marijuana Establishment and the Town, including host community agreements.~~

~~5. — Marijuana Establishments shall maintain all permits and licenses required by State and local laws. Any laws voiding of the Cannabis Control Commission's license by operation of law (including due to cessation of operations, failure to become operational within the permitted time, or relocation without Cannabis Control Commission approval); and any revocation or suspension of the Marijuana Establishment's Cannabis Control Commission license shall result in an automatic suspension of the special permit pending hearing or the opportunity therefore afforded to the Marijuana Establishment and pending further determination by the Zoning Board of Appeals.~~

~~6. — All taxes and charges owed to the Town must be paid on a current basis. The Town may place a lien on the property of any person who has an outstanding balance due the Town from any fee, charge or tax, which balance is at least six (6) months past due.~~

G. Operational Requirements

~~14. — All Marijuana Establishments' licensed operations shall be conducted within a building at a fixed location.~~

~~15. — No Marijuana Establishment shall allow cultivation, processing, manufacture, sale or display of Marijuana or Marijuana Products to be visible from a public place without the use of binoculars, aircraft, or other optical aids.~~

~~16. — Marijuana Establishments may cultivate, process, test, store and manufacture Marijuana or Marijuana Products only within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the Marijuana Establishment to access the area.~~

~~17. — The hours of operation of Marijuana Establishments shall be those that are set by the Marijuana Establishment's host community agreement with the Town or a Select Board issued license.~~

~~18. — Marijuana Establishments shall ensure that their hours and methods of transportation of product shall not be a detriment to the surrounding area and nearby uses.~~

~~19. — Marijuana Establishments shall not permit any disorder, disturbance, or illegality under State or local law of any kind on the premises.~~

~~20. — Marijuana Establishment operations shall not result in illegal redistribution under State or local law of Marijuana obtained from the Marijuana Establishment, or in use of Marijuana in any manner that violates State or local law.~~

~~21. — Marijuana Establishment operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding its premises and adjacent properties. "Nuisance" includes, but is not limited to, disturbances of the peace, open public consumption of Marijuana, excessive pedestrian or vehicular traffic, odors emanating from the Marijuana Establishment's premises, electrical lighting, illegal drug activity under State or local law, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, excessive citation for violations of State traffic laws and regulations and/or Transportation Division Rules and Regulations, queuing of patrons (vehicular or pedestrian) in or other obstructions of the public way (sidewalks and streets), collisions between vehicles, bicyclists, and pedestrians, lewd conduct or police detentions and arrests.~~

~~22. — Marijuana Establishments shall equip the premises and otherwise conduct their operations in such a manner that (a) no pesticides or other chemicals or products are dispersed into the outside atmosphere, and (b) no odor of Marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the facility or at any adjoining use or property.~~

~~23. — A Marijuana Establishment shall be required to remove all Marijuana and Marijuana Products by the earlier of:~~

- ~~a) prior to surrendering its State issued license; or~~
- ~~b) within six (6) months of ceasing operations.~~

~~24. — Marijuana Establishments shall comply with 527 CMR and with Chapter 38 of the NFPA 1 (2018), as they may be amended, and as applicable.~~

~~25. — Marijuana Establishments are prohibited from use of on site self service displays. Self-service displays are defined to mean displays from which customers may select Marijuana or Marijuana Products without assistance from an employee or store personnel, and include vending machines.~~

~~26. — Consumption of Marijuana in the interior or exterior of the premises is not permitted except as follows. Duly licensed Social Consumption Marijuana Retailers may permit on premises consumption of Marijuana and Marijuana Products which they are licensed to sell to customers purchasing their products who are aged 21 years and older in the event that on premises consumption is approved by the Town pursuant to and in the manner provided by M.G.L. c. 94G, § 3(b). In the event that on premises consumption is approved by the Town in such manner, Social Consumption Marijuana Retailers must abide by all State and local requirements for Marijuana Establishments. Social Consumption Marijuana Retailers shall comply with all legal requirements pertaining to verification that a patron is at least 21 years of age utilizing acceptable forms of proof of age, including any proof of age verification requirements established by the Select Board in connection with the local licensing of Marijuana Establishments. In no event shall Social Consumption Marijuana Retailers permit the smoking of Marijuana or Marijuana Products on the premises. Smoking is defined to mean the lighting of, or having in one's possession any lighted cigarette, cigar, pipe or other product designed to be combusted and inhaled. The activation of or inhalation of vapor from an e-cigarette or other similar device shall be considered smoking.~~

H. Security Specific Requirements

~~5. — Marijuana Establishments shall maintain compliance with any Town Police Department approved security and public safety plans as the Police Department may require, which plan may include measures relating to alarms, fencing, gates, limited access areas, delivery procedures, police details, specification of video and lighting locations, notifications to the Police Department in the event of any known or suspected violation of criminal law that has taken place on or near the location of the establishment.~~

~~6. — Marijuana Establishments shall secure every entrance to the Marijuana Establishment so that access to areas containing the storage of Marijuana products are restricted to employees and others permitted by the Marijuana Establishment to access the area and to Cannabis Control Commission or state and local law enforcement officers, agents and emergency personnel.~~

~~7. — Marijuana Establishments shall secure their inventory and equipment during and after operating hours to deter and prevent theft of Marijuana, Marijuana Products and Marijuana accessories.~~

~~8. — Marijuana Establishments shall file an emergency response plan with the Town's Fire, Police and Health Departments and share with these Departments their security plan and procedures and any updates to them in the event they are modified.~~

~~I. Access to Premises and Information/Reporting/Record Keeping~~

~~4. — Marijuana Establishments shall consent to unannounced, unscheduled, periodic inspections of its premises by the Building Commissioner or designee, including an agent from the Building, Health, Police and Fire Departments (which, when conducted by the Police Department, shall be by a sworn police officer holding the rank of Sergeant or higher) on week days during normal business hours to determine the Marijuana Establishment's compliance with the requirements of applicable state and local laws, regulations, codes, license and permit conditions, and this section. In addition, routine inspections may be made on week days during regular Town business hours by authorized inspectional departments to determine compliance with applicable state and local laws, regulations, codes and license and permit conditions. Inspections by the authorized inspectional departments may be made at other times to investigate complaints or suspected non-compliance issues. Inspections may include all areas occupied, used or controlled by the Marijuana Establishment. Facilities requiring re-inspection are subject to applicable re-inspection fees. Inspections shall be conducted in conformity with applicable federal, state and local law.~~

~~5. — Marijuana Establishments shall cooperate and comply with requests for information made by the Building Commissioner or designee, including agents from the Planning, Building, Health, Police, Fire and Public Works Departments.~~

~~6. — Within twenty four (24) hours of receipt of notice of it, a Marijuana Establishment shall file with the Town Administrator, Director of Public Health and the Building Commissioner any summary cease and desist order, cease and desist order, quarantine order, suspension order, revocation order, order limiting sales, deficiency statement, plan of correction, notice of a hearing, notice of any other administrative process or legal action, denial of a license, denial of a renewal of a license, or final action issued by a state or federal agency (including, but not limited to, the Cannabis Control Commission and Massachusetts Department of Public Health) regarding the Marijuana Establishment, the Cannabis Control Commission license, or the Department of Public Health Certificate of Registration.~~

J. 4. Additional Location Requirements for Marijuana Establishments

8. Marijuana Establishments shall not be located in a building that contains a pre-existing daycare center.

9. Marijuana manufacturing or extraction shall not be done in any building containing assembly, educational, health care, ambulatory health care, residential board and care, residential, or detention and correctional facilities.

10. ~~Delivery Only Marijuana Retailers~~ **Marijuana Couriers** and Marijuana Transporters shall not occupy street-level space in Local or General Business districts.

11. The required distance from schools that serve Kindergarten through 12th grade, public or private, shall be:

a. 500 feet for i) Social Consumption Marijuana Retailers issued a primary use license; and ii) Storefront Marijuana Retailers with the following provisions:

2. Where the 500-foot buffer intersects a major corridor (as defined in subsection 2 immediately below), the buffer zone shall not include land on the opposite side of the major corridor from where the school is located.

2. For purposes of this section, “major corridors” are defined as Beacon Street, Commonwealth Avenue, and/or Route 9 (otherwise known as Boylston Street, including a portion of Route 9 that converts to Washington Street).

b. No distance requirement applicable to i) Marijuana Research Facilities that do not hold a Marijuana Retailer license; ii) Marijuana Independent Testing Laboratories; and iii) Marijuana Standards Laboratories.

c. 200 feet for all other Marijuana Establishments.

d. Measured from lot boundary to lot boundary.

12. Density requirements for Social Consumption Marijuana Retailers issued a primary use license and Storefront Marijuana Retailers shall be:

a. A minimum of 200 feet from another Social Consumption Marijuana Retailer issued a **Select Board** primary use license **pursuant to Article 8.37 of the Town’s General Bylaws** or a Storefront Marijuana Retailer, if any portion of the establishment is located at street-level.

b. Allowed within 200 feet from another Social Consumption Marijuana Retailer issued a **Select Board** primary use license **pursuant to Article 8.37 of the Town’s General Bylaws** or a Storefront Marijuana Retailer above or below street-

level as long as the Zoning Board of Appeals determines that doing so will not have a detrimental impact on the vibrancy of the streetscape and all other applicable requirements are satisfied (applicable to uses 29A and 29B).

c. Measured from lot boundary to lot boundary.

13. Store Size Limitations for Social Consumption Marijuana Retailers issued a primary use license and Storefront Marijuana Retailers, *Marijuana Couriers, and Marijuana Delivery Operators* shall:

a. Not exceed a total gross floor area of 5,000 square feet per establishment.

b. Not exceed a gross floor area of 3,500 square feet and no more than 5,000 square feet total gross floor area per establishment if any portion of the establishment is located at street-level. *Not applicable to Marijuana Couriers and Marijuana Delivery Operators.*

c. Not apply to Medical Marijuana Treatment Centers licensed to operate prior to July 1, 2017, who receive a State Storefront Marijuana Retailer license or Delivery-Only Marijuana Retailer license pursuant to M.G.L. c. 94G and the regulations promulgated thereunder, unless a licensed Medical Marijuana Treatment Center expands the licensed premises or building.

14. *The Parking and Loading Requirements for Marijuana Delivery Operators shall be as follows:*

a. ~~All loading, parking, and storage of commercial vehicles shall be within an enclosed building.~~

b. ~~Delivery and loading of Finished Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods shall occur with an enclosed building.~~

~~a. The maximum parking limit shall be 1.5 spaces per for every 1000 square feet of gross floor area.~~

b. 7. A minimum of one loading space sufficient in size to park and load any vehicle used for delivery shall be required for Marijuana Delivery Operators and shall be used solely to meet the loading and delivery needs associated with the use on the site.

~~a.~~

14. 7 Site Plan Review for Marijuana Establishments

The following describes requirements for a Marijuana Establishment site plan review process to precede the Marijuana Establishment's application for a building permit and a special permit:

I. Prior to applying for a building permit, the Marijuana Establishment shall have an initial informal meeting with the Planning Director and the Building Commissioner or designees to discuss development plans and relevant Zoning By-Law requirements.

J. The appropriate site plan review process shall be determined at the initial meeting consistent with the Zoning By-Laws, which may include, but is not limited to, the process for Major Impact Projects and Design Advisory Teams.

K. In addition, at the discretion of the Planning Director or designee, the Marijuana Establishment Site Plan Review process may entail submission of reports from all relevant departments and divisions, which may include the Health Department, the Police Departments, the Fire Department, the Building Department, the Department of Public Works (e.g., the Transportation Division in the event that a Transportation Demand Management Plan may be contemplated, the Water Division, the Highway and Sanitation Division, as applicable), and/or any other Department that the Planning Director or designee determines to be appropriate to the project.

L. The applicant is responsible for obtaining any Department report deemed necessary by the Planning Director or designee in connection with Marijuana Establishment Site Plan Review process and submitting the report to the Planning Department. The Planning Department will assist with identifying to the applicant information and documents that Departments may require in connection with issuing their reports. Departments responsible for reports may identify other needed information and documents needed from the applicant.

M. Each Department designated by the Planning Department to issue a report will make its report available to the applicant no later than forty-five (45) calendar days from the date the applicant has completed submission to the Department of all requested information and documents.

N. In the event a Department designated by the Planning Department to issue a report does not do so within 45 days of when the applicant submitted all requested information and documents to the Department, the applicant may submit to the Planning Department, in lieu of the report, a letter showing evidence of the applicant's submission of requested information and documents to the Department or stating that no documents or information was requested, as the case may be.

O. The Marijuana Establishment shall cooperate with requests for information or meetings by the Planning Director and/or by any of the Departments designated by the Planning Director to issue reports as part of the Marijuana Establishment Site Plan Review process, which information may include the Marijuana Establishment's application for a license from the Cannabis Control Commission or relevant State agency.

P. Marijuana Establishments may not apply for a building permit until the Planning Director and Building Commissioner have issued a written Notice of Completion of Marijuana Establishment Site Plan Review.

15. Special Permits

The following apply to special permits to operate a Marijuana Establishment, in addition to the requirements set forth in §9 of the Zoning By-Laws.

C. Application requirements: Marijuana Establishments shall include with their special permit application:

5. Copies of any required licenses and permits relating to the operation of the Marijuana Establishment, or, if an application for a required license or permit is pending, a copy of the application.
6. Evidence of the Marijuana Establishment's right to use the proposed site as a Marijuana Establishment, such as a deed or lease.
7. A copy of the Notice of Completion of Marijuana Establishment Site Plan Review Process for Marijuana Establishments.
8. Any other materials requested by the Special Permit application form, as well as any other additional materials the Planning Department determines is necessary for review, such as Department reports or transportation studies or a license application.

D. Special permit criteria: The Board of Appeals shall not approve any application for a special permit unless it finds that in its judgment all of the following conditions are met:

4. Issuance of the special permit would not contravene the cap on the number of special permits that may be granted (see subsection ~~4-3~~, Cap on the Number of Special Permits for Storefront Marijuana Retailers, *Marijuana Couriers*, *Marijuana Delivery Operators* of this section) and any applicable density restrictions (see subsection ~~4-5~~, *Additional Location Requirements for Marijuana Establishments*, General Requirements for Marijuana Establishments, of this section). ~~Issuance of a special permit must also comply with applicable State and local laws.~~
5. The location is compliant with Section 4.13 in its entirety.
6. The Board of Appeals is otherwise satisfied that the Marijuana Establishment has the ability to comply with the General Requirements for Marijuana Establishments set forth in Section 4.13, and 4.12 if applicable.

16. Submittal Requirements prior to issuance of a Certificate of Occupancy

The following information shall be provided to the Building Department:

D. Proof that the Brookline Police Department has been provided with the name, phone numbers and email addresses of all management staff, and with access to the facility when it is closed, to enable contact if operating problems should arise.

E. Proof that all security measures required by the special permit have been installed or implemented.

F. Proof that the applicant is compliant with implementing any required transportation mitigation measures.

17. Enforcement

This section of the Zoning By-Law shall be enforced by the Building Commissioner or the Building Commissioner's designee, as may be consistent with law. This Section, 9. Enforcement, shall supersede any conflicting provision of the Zoning By-Laws that would otherwise be applicable to the enforcement of this section.

18. Implementation

This section shall not be implemented in a manner that conflicts or interferes with the operation of M.G.L. c. 94G, 94I or the regulations promulgated thereunder, including 935 CMR 500 or act on anything relative thereto.

Approved: Aye: 170 No: 46 Abstained: 10

ARTICLE 23

Amend Section 4.08 of the Town's Zoning Bylaw pertaining to Affordable Housing Requirements

Submitted by: Roger Blood

Motioned and duly seconded

Presented by: Roger Blood

Speakers: Roger Blood (Housing Advisory Board), John VanScoyoc (SB/AL), Steve Heiken (Planning Board), Lee Selwyn (P13/AC)

MOTION to terminate debate

Approved: Aye: 157 No: 50 Abstained: 11

VOTED: That the Town will amend Section 4.08 of the Brookline Zoning Bylaw (Inclusionary Zoning) as further detailed below. (deletions struck, additions underlined)

Para. 2.c: Definitions, AFFORDABLE UNIT

c. AFFORDABLE UNIT means a dwelling unit which meets the following conditions:

1) In a project in which affordable dwelling units will be rented, a unit shall be considered an affordable unit if:

(a) it is rented to an eligible low or moderate income household; and

~~(b) it is made available at an initial rent that is calculated such that a hypothetical household with 1.5 persons per bedroom and with an income set at 10 percentage points less than the applicable income limit would be paying 30% of gross income on rent and tenant paid utilities, unless the occupant has a tenant-based subsidy, in which case the rent may be the amount allowed under the subsidy, provided that the occupant is not paying more than 30% of gross income on rent and tenant paid utilities.~~

(b) it is made available at an initial rent that is calculated such that a hypothetical household, with the number of household members equal to the number of bedrooms plus one and with an income set at the applicable income limit, would be paying 30% of gross income on rent and tenant-paid utilities. If the occupant has a tenant-based subsidy, the rent may be the amount allowed under the subsidy, provided that the occupant is not paying more than 30% of gross income on rent and tenant-paid utilities. Rental of all affordable units will follow the process as prescribed in the Affordable Housing Guidelines

2) In a project in which affordable dwelling units will be sold, a unit shall be considered an affordable unit if:

(a) it is sold to an eligible low or moderate income household; and

~~(b) it is made available at a sales price that is calculated such that a hypothetical household with 1.5 persons per bedroom and with an income set at 10 percentage points less than the applicable income limit would be paying 30% of gross income towards a mortgage, mortgage insurance, condominium fee and property taxes for a standard thirty-year mortgage at 95% of sales price.~~

(b) it is made available at a sales price that is calculated such that a hypothetical household, with the number of household members equal to the number of bedrooms in a unit plus one and with an income set at 10 percentage points less than the applicable income limit, would be paying 30% of gross income towards a mortgage, mortgage insurance, condominium fee and property taxes for a standard thirty-year mortgage at 95% of the sales price. Sale of all affordable units will follow the process as prescribed in the Affordable Housing Guidelines.

Para. 2.d: Definitions, ELIGIBLE HOUSEHOLD

d. ELIGIBLE HOUSEHOLD means a household comprised of a single individual or a family eligible for housing under regulations promulgated by the United States Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, or any successor federal or state program. Income limits for Eligible Households may be further defined in this Section and under the Affordable Housing Guidelines.

Para. 5.e: Required Affordable units

e. For projects that include onsite affordable units, or affordable units on an offsite location as contemplated by Section 7(a), the applicant may provide the required affordable units for eligible households whose incomes exceed 50% of the median income for rental units and 80% of the median income for owner-occupied units, subject to the applicant making a supplemental payment to the Housing Trust, as provided in the Affordable Housing Guidelines.

Approved: Aye: 218 No: 3 Abstained: 6

[Recess at 8:42pm, Reconvene at 8:50pm]

ARTICLE 34

Resolution pertaining to the adoption of a voluntary Payment in Addition to Tax (“PIATT”) Program

Submitted by: Paul Harris, TMM-9; Nathan Shpritz, TMM-16; Jane Gilman, TMM-3; Bob Weintraub, TMM-9; Deborah Brown, TMM-1; Bob Miller, TMM-8; Linda Olson Pehlke, TMM-2; Werner Lohe, TMM-13

Motioned and duly seconded

Speakers: Paul Harris (P9), Harry Bohrs (P3/AC), Bob Weintraub (P9), John VanScoyoc (SB/AL), Nathan Shpritz (P16)

MOTION to terminate debate

Approved: Aye: 156 No: 51 Abstained: 11

VOTED That the Town will adopt the following Resolution (with Advisory Committee additions **underlined in bold** and deletions in strikeout):

1. WHEREAS, the Town of Brookline has historically been a lighthouse community in our nation, with a reputation for responding with creativity and innovation to a broad range of local, national, and global challenges — in climate action, education, housing, preservation, and engaged governance;
2. WHEREAS, the COVID-19 pandemic has produced the dual financial challenges of reduced Town of Brookline revenue and significant increased need; it also presents an opportunity to create a 21st Century Vision of Brookline in a Global Context supported by ~~Town of Brookline staff~~, community volunteers, and people of means who find fulfillment providing financial support to their home community;

3. WHEREAS, The Town of Brookline has immediate needs not included in the current budget to serve the less-privileged among us, especially in the context of COVID-19, for nutritious food, urgent affordable housing repairs, access to reliable and affordable wifi services, emotional and physical safety and wellness, including additional social workers in the public schools, Innovation Funds in the K-8 schools that can address equity issues, technology-vocational training, and educational support;
4. WHEREAS, in addition to addressing immediate needs, the Town of Brookline requires long-term resources, including for comprehensive planning and zoning, to develop and realize a 21st Century Vision of Brookline in a Global Context, that will: a. Provide necessary support so that all Brookline residents, including the elderly, disabled, and disadvantaged, have food, safe housing, and basic services; b. Address racial justice and equity issues 89; c. Lead the transition from fossil fuel energy to renewable electricity for Town facilities and throughout Brookline to support a sustainable future for the world; d. Engage elders as wise counselors and inspiring mentors for younger generations; e. Provide guidance and support to meet the physical, mental, emotional, and social wellness needs of students in the Public Schools of Brookline; f. Advocate for improvements in state and national policies to better meet local needs;
5. WHEREAS, many employees of the Town of Brookline cannot afford to live in Brookline, and a Town program providing affordable housing for Town employees who want to live in Brookline could benefit the entire Brookline community;
6. WHEREAS, tax policy in the United States and in Massachusetts has skewed LESS progressive since the 1970's, with real hourly wages stagnant and the social safety net weakened, leading to growing income and wealth gaps, and those most fortunate among us now have the means to make a greater contribution to the public good of the town;
7. WHEREAS, In 2020, the wealthiest 1.13% of U.S. households had a net worth above \$10 million; **and in Brookline it is likely substantially higher;**
8. WHEREAS, an annual household voluntary contribution to **from the more wealthy among us can** help realize a 21st Century Vision of Brookline in a Global Context **and** ~~of 1% of total net worth above \$10 million~~ would be of significant value to our community;
9. WHEREAS, The Town of Brookline has a Payment in Lieu of Tax (PILOT) Policy and receives voluntary contributions from tax-exempt property owners;

NOW, THEREFORE, BE IT RESOLVED that Brookline Town Meeting calls upon the Select Board to (i) adopt a Payment in Addition to Tax (PIATT) Program; **(ii) appoint a** ~~recommended by a Select Board appointed~~ committee charged with developing rules and regulations for disbursement of funds received; ~~and (ii) (iii)~~ **(iii)** encourage ~~contributing~~ Brookline households to make annual voluntary contributions to the Town of Brookline with a suggested guideline of 1% of household net worth above \$10 million, ~~or such other amount as Town Meeting may recommend~~ **(with other voluntary contributions gratefully accepted as well)**, pursuant to and under Massachusetts General Laws, Chapter 44, Section 53A; with these contributions to be used exclusively for public purposes and therefore be considered tax-deductible under Section 170(c)(1) of the Internal Revenue Code; and ~~(iii)~~ **(iv)** consider a similar program for businesses and others

Approved: Aye: 182 No: 21 Abstained: 17

ARTICLE 35

Resolution to encourage voting in Brookline

Submitted by Anthony Ishak, Deborah Brown TMM-1, Bettina Neufeind TMM-1, Kate Silbaugh TMM-1, Amanda Zimmerman, Michael Zoorob

Motioned and duly seconded

Speakers: Kate Silbaugh (P1), Ben Birnbaum (AC), Anthony Ishak (Resident), Bernard Greene (SB/AL)

MOTION to terminate debate

Approved: Aye: 157 No: 55 Abstained: 9

VOTED: Motion to Refer to a Select Board committee:

Failed: Aye: 105 No: 113 Abstained: 5

MOVED: That the Town adopts the following resolution:

WHEREAS, approximately 51% of Brookline residents rent; and

WHEREAS, approximately 18% of Brookline residents voted in the 2020 Town election and

WHEREAS, renters vote at lower rates compared with homeowners; and

WHEREAS, voter registration applications are restricted to limited locations that may be difficult to access; and

WHEREAS, renters are registered to vote at a lower percentage as compared with homeowners; and

WHEREAS, renters have a vested interest in elections and particularly local elections that impact policies applicable to them; and

WHEREAS, voting promotes inclusivity to disadvantaged populations; and

WHEREAS, Massachusetts allows eligible citizens to register to vote in person at a number of public facilities including town halls, via mail in registration form, or online if the Registry of Motor Vehicles has their signature on file; and

WHEREAS, the Election Department requires Brookline residents changing addresses or people moving into the Town from another municipality to update their registration to remain an eligible voter; and

WHEREAS, the Town of Brookline is committed to making it easier for eligible residents to vote by considering all novel means to increasing access; and

WHEREAS, a cornerstone of the Town form of government is full participation by a majority of residents; and

WHEREAS, increasing voter access is not a costly endeavor as compared to the gains associated with full enfranchisement for renters;

THEREFORE BE IT RESOLVED THAT:

1. The Town of Brookline will promote voting by providing mail-in voter registration forms at all Town buildings regularly accessed by the public (including but not limited to: Town Hall, libraries, Brookline Public Housing properties, fire stations, police stations, and schools). It will also work with the Brookline Housing Authority (BHA) to ensure that its residents have easy access to voter registration forms.
2. The Town of Brookline will promote voting by including mail-in voter registration forms with the Annual Town Census.
3. The Town of Brookline will promote voting by providing absentee ballot applications with stamped envelopes at all Town buildings regularly accessed by the public (including but not limited to: Town Hall, libraries, fire stations, police stations, and schools). The Town Clerk will work with BHA to identify locations for absentee ballot applications with stamped envelopes.
4. The Town of Brookline will ensure that it has ample multilingual materials at all voter registration sites, including online, and at polling stations by April 2022.
5. The Town of Brookline will send non-partisan robocalls and use social media to remind voters to cast ballots on Election Day beginning in May 2022.
6. Be it further resolved that the Office of the Town Clerk shall conduct a geo-spatial study of ways to increase the registration of new eligible voters as well as improve rates of election participation and report findings and recommendations by January 31, 2022 and implement by December 31, 2022.

That study will take into account the collection of voting data available to the Town; availability and distribution of voter registration materials; utilization of census mailings for the distribution of voting-related materials; the need for multi-lingual registration and voting materials; increasing citizen opportunities for ballot drop-off; and the use of social media and other communications to promote such citizen participation—and the costs associated with such improvements. The Office of the Town Clerk will also report on the need for, and cost of, a scientific study of voting registration and voting patterns in Brookline.

Approved: Aye: 186 No: 17 Abstained: 15

ARTICLE 36

Resolution to establish a Moderator's Committee to report on and address the Brookline Fiscal Advisory Committee's February 2020 Report recommendations

Submitted by Mike Toffel (TMM 8), Peter Bleyleben, Ben Franco, Mini Kolluri, David Kirshner, Nicole McClelland (TMM 11), Mariah Nobrega (TMM 4), David Pearlman (TMM 15), Paul Saner (TMM 13), Arthur Segel (TMM 14), and Nathan Shpritz (TMM 16)

Motioned and duly seconded

Speakers: Mike Toffel (P8), John VanScoyoc (SB/AL), Michael Sandman (P3/AC), Ben Birnbaum (AC), Deborah Brown (P1), Mark Levy (P7), Maria Nobrega (P4)

MOTION to terminate debate

Approved: Aye: 133 No: 68 Abstained: 9

MOVED: the Town will adopt the following Resolution:

WHEREAS in 2018 the Select Board created the charge for the Brookline Fiscal Advisory Committee (BFAC) to review and evaluate Brookline's fiscal and financial projections, examine the Town and School's budget principles and financial policies, and suggest actions to address misalignment between projected revenues and expenditures (the "structural deficit");

WHEREAS the Brookline Fiscal Advisory Committee issued its final report in February 2020, which including 18 primary recommendations and many secondary ones (available at <https://www.brooklinema.gov/1516/Brookline-Fiscal-Advisory-Committee>);

WHEREAS BFAC members presented the BFAC's final report recommendations to the Select Board, Advisory Committee, School Committee, Town Meeting Members, and the Brookline community-at-large in February – April 2020;

WHEREAS the BFAC report included a 24-month Implementation Plan to "place the Town and PSB on a path to begin operating under sustainable annual budgets, remain positioned to finance continued investment in infrastructure and facilities, and retain the Town's AAA credit rating" and included "a sequence and timeline for action on each recommendation along with their subsidiary recommendations, and clearly identifies the involved parties."

WHEREAS the BFAC report called for the plan's implementation to "be a shared responsibility among all of the principal government bodies", and specifically called for the following public bodies to consider the BFAC report's recommendations: Advisory Committee, Audit Committee, Committee on Town Organization & Structure, Economic Development Advisory Board, Planning Board, School Committee, Select Board;

WHEREAS the Town Administrator and the School Committee have considered and begun implementing some BFAC recommendations, but many of the BFAC report's recommendations have not yet been deliberated or acted upon by the relevant Brookline public bodies, despite being more than midway through the BFAC Implementation Plan's proposed two-year implementation schedule;

WHEREAS the COVID-19 pandemic was a major focus for Town officials and staff during the past year, the BFAC recommendations must nonetheless gain the attention they require in order to keep Brookline on a sound fiscal footing;

WHEREAS the Select Board has not issued comprehensive status reports on the Town's consideration of or implementation of BFAC recommendations;

WHEREAS many of the issues that prompted the Select Board to create BFAC remain unresolved;

NOW, THEREFORE, BE IT RESOLVED that Town Meeting directs the Moderator to appoint a committee to document (1) the status of deliberations regarding each BFAC recommendation, (2) whether those deliberations have led to decisions to accept or reject the recommendation, and (3) the state of implementation plans and activities. This committee shall discuss these activities with, at least, the public bodies and roles named in the BFAC Implementation Plan contained in the BFAC final report. The committee shall deliver written reports to Town Meeting Members, the Select Board, the Advisory Committee, and the School Committee by August 15, 2021, February 15, 2022, and August 15, 2022 – timing that precedes by several weeks the dates when the Warrant will likely open in anticipation of the next three Town Meetings. The committee shall conduct at least one public presentation concurrent to the delivery of each of the aforementioned reports.

Approved: Aye: 179 No: 24 Abstained: 12

MOTION to Adjourn, duly seconded

Approved

Night 8: June 7, 2021

- Call to order: 7:00PM
- Meeting called to order by Moderator Poverman
- Updated votes announced by the Moderator
- Presentation by Donelle O'Neal, Sr (P4)

[Assistant Moderator Gadsby presiding]

ARTICLE 39

Resolution to create a Babcock Street Parking Lot Study Committee

Submitted by: Deborah Brown, Luciana Schachnik, Arthur Conquest and Jonathan Klein

Motioned and duly seconded

Presented by Deboarh Brown

Speakers: Deborah Brown (P1), Christine Westphal (AC), Emy Takinami (P10), Maria Nobrega (P4), Roger Blood (Housing Advisory Board), Kimberley Richardson (P2), Bernard Greene (SB/AL), Ryan Black (P6), Paul Saner (P13), Sean Lynn-Jones (P1), David Leschinsky (Resident), Anne Greenwald (P8), Rebecca Mautner (P11), Lauren Bernard (P8), Jane Gilman (P3), Alan Christ (P4), John VanScoyoc (SB/AL), Gill Hoy (P13), Emy Takinami (P10), Clint Richmond (P6), Isaac Silberberg (P8)

MOTION to terminate debate

Failed: Aye: 112 No: 94 Abstained: 8

MOTION to terminate debate

Approved: Aye: 173 No: 40 Abstained: 8

MOVED the Town will vote the following resolution:

RESOLUTION REGARDING BABCOCK ST PARKING LOT AFFORDABLE HOUSING STUDY COMMITTEE

WHEREAS, the Town’s need for housing has gone largely unmet because of the high cost of land, complex zoning issues and limited land, and

WHEREAS, the Town’s 2016 Housing Production Plan is the yardstick for evaluating housing production, and

WHEREAS, the Town lacks to the requisite resources to adequately conduct such research called for in the 2016 Housing Production Plan, and

WHEREAS, the Town’s 2016 Housing Production Plan asserts that the Town will “provide more than 10 percent of Brookline’s year-round housing stock as affordable housing to address documented housing needs and preserve the long-term affordability and physical condition of existing affordable housing units. Participants affirmed this goal with some suggesting that Brookline strive to go beyond the 10% minimum and serve the actual number of residents in need, and,

WHEREAS, Brookline has an expressed commitment to exceed its 10% affordable housing goals, it has struggled to meet this the actual housing needs, and,

WHEREAS, the Town's 2016 Housing Production Plan asserts the it "will look to encourage new housing and mixed-use development, where appropriate, on: Municipally-owned parcels, such as the municipally owned parking lot in Brookline Village situated between Kent and Station Streets, and other properties that may be identified and prioritized as part of a future Strategic Asset Plan," and,

WHEREAS, no such study of municipally-owned parcels has occurred, and

WHEREAS, the 2016 Housing Production Plan calls for the Town to "continue to nurture partnerships with mission-based development organizations to help foster affordable housing development," and

NOW THEREORE, be it resolved, that Town Meeting requests that the Select Board with the assistance of the Housing Advisory Board, appoint, within sixty (60) days following the Town Meeting vote, a committee comprised of Housing Advisory Board members, the Brookline Housing Authority, The Brookline Improvement Coalition, one experienced developer and at least one resident to explore ways to build family affordable housing at Parcel 047A-07-09, Lot 3, Book 549 and Page 604 also known as 15 Babcock Street and to utilize the committee process and Request for Information tool as recently used for the Kent/Station Street Affordable Housing Initiative. The study team would have 180 days to complete their feasibility study.

Approved: Aye: 118 No: 99 Abstained: 10

[Moderator Poverman presiding]

ARTICLE 40

Resolution to provide additional funding and explore future partnerships with the Brookline Interactive Group ("BIG") and establish a committee to reexamine current and future grant of location and cable benefits to the Town

Submitted by Daniel Saltzman, TMM-6; Bonnie Bastien, TMM-5

Moved and duly seconded

Speakers: Bonnie Bastien (P5), Dan Salzman (P6), Paul Warren (P1/AC), Raul Fernandez (SB/AL)

MOTION to terminate debate

Approved: Aye: 191 No: 19 Abstained: 13

MOVED the Town will adopt the following Resolution:

WHEREAS, Brookline Interactive Group (BIG) provides an invaluable service to the Town;
And

WHEREAS, the transition of subscribers from traditional cable to broadband leads to a shift in the funding of public access stations; and

WHEREAS, the resources of Brookline Interactive Group could be further utilized in the Town to provide direction for information access generally;

WHEREAS, the licensing authority of the Town, for example over grants of location and the cable franchise, can be used to acquire resources for the public at low cost;

THEREFORE BE IT RESOLVED that the Town commit to providing stable funding for BIG not dependent on the cable choices of Town residents, including by increasing the percentage of cable franchise fees devoted to BIG; and

BE IT FURTHER RESOLVED that the Town explore further partnerships with the Brookline Interactive Group to utilize its resources and expertise for public benefit, for example community broadband or computer labs and internet access to underserved populations;
And

BE IT FURTHER RESOLVED that the Select Board establish a committee, including representatives from BIG and members of the public, to reexamine the ways that grant-of-location and cable licensing could provide benefit to the Town and opportunities for future benefit, including the uses made of subscriber fees, equipment/facilities funds, dark fiber, and side agreements such as for internet access, and make a report to the Town by May 2022.

Approved: Aye: 221 No: 1 Abstained: 4

MOTION to dissolve town meeting, duly seconded

Approved

[Meeting is dissolved June 7, 2021 at 8:45pm]